

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DONNA POPLAR,

Plaintiff,

vs.

Case No. 2:21-cv-12568-VAR-JJCG
Hon. Victoria A. Roberts

GENESEE COUNTY ROAD COMMISSION
and FRED F. PEIVANDI, in his
individual capacity,

Defendants.

DEPOSITION OF FRED PEIVANDI, taken on Thursday,
July 14, 2022, at 211 West Oakley Street, Flint, Michigan,
noticed for 10:00 A.M.

APPEARANCES:

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Court Reporter: Cynthia Lathrop, CSR-2474

ALSO PRESENT:

Ms. Maddy Sides

* * * *

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<p>1 Flint, Michigan</p> <p>2 Thursday, July 14, 2022</p> <p>3 10:04 a.m.</p> <p>4 R E C O R D</p> <p>5 COURT REPORTER: Do you solemnly swear</p> <p>6 or affirm to tell the whole truth in this matter so</p> <p>7 help you God?</p> <p>8 THE WITNESS: I do.</p> <p>9 MS. GAFKAY: Let the record reflect</p> <p>10 that this is the date and time set for the deposition</p> <p>11 of the individual Defendant, Fred Peivandi, to be</p> <p>12 taken for any and all purposes under the Federal Rules</p> <p>13 of Civil Procedure.</p> <p>14 Good morning, Mr. Peivandi. I just</p> <p>15 introduced myself off the record. My name is Julie</p> <p>16 Gafkay. I'm an attorney, and I'm here with my</p> <p>17 co-counsel -- lead counsel Charis Lee, but I am her</p> <p>18 co-counsel.</p> <p>19 Have you ever had your deposition taken</p> <p>20 before?</p> <p>21 THE WITNESS: No.</p> <p>22 MS. GAFKAY: And have you sat through</p> <p>23 depositions before?</p> <p>24 THE WITNESS: Yes.</p> <p>25 MS. GAFKAY: How many depositions have</p>	<p>Page 3</p>	<p>1 like we just did, and I know you didn't do that on</p> <p>2 purpose, but that is one of the instructions I do</p> <p>3 give.</p> <p>4 There is a record being made. After</p> <p>5 the deposition is done, there'll be a transcript of</p> <p>6 everything that was being said. So one important</p> <p>7 thing to know is to answer audibly with a yes or no</p> <p>8 versus a nod or shake of the head; okay?</p> <p>9 THE WITNESS: Got it.</p> <p>10 MS. GAFKAY: Also, try to avoid um-hum,</p> <p>11 uh-huh. If you say that, everybody does at one time</p> <p>12 or another, your attorney or I may say is that a yes,</p> <p>13 or is that a no. We're not trying to be rude, we're</p> <p>14 just trying to make sure we get a clear record; okay?</p> <p>15 THE WITNESS: Okay.</p> <p>16 MS. GAFKAY: In addition, when I ask</p> <p>17 questions, sometimes I pause when I'm asking a</p> <p>18 question before I'm even done; so if you could just</p> <p>19 bear with me and wait till I'm done asking the full</p> <p>20 question before you begin to answer, that will allow</p> <p>21 us to have a clearer record; and, likewise, I will try</p> <p>22 to wait until you're done fully answering a question</p> <p>23 before I ask the next question, again, so we have a</p> <p>24 clear record. If we do at times talk over each other,</p> <p>25 I may remind you. Again, I'm not trying to be rude,</p>	<p>Page 5</p>
<p>1 you sat through?</p> <p>2 THE WITNESS: Probably seven to eight.</p> <p>3 MS. GAFKAY: Seven to eight; okay.</p> <p>4 THE WITNESS: Seven to eight</p> <p>5 depositions.</p> <p>6 MS. GAFKAY: Did you sit through</p> <p>7 depositions in the Branch versus Genesee County Road</p> <p>8 Commission case?</p> <p>9 THE WITNESS: That's correct.</p> <p>10 MS. GAFKAY: All right. And are those</p> <p>11 all of the depositions you've sat through, the seven</p> <p>12 to eight?</p> <p>13 THE WITNESS: Yes, with all the</p> <p>14 commissioners and all the witnesses we had, I think</p> <p>15 seven to eight, I believe it was.</p> <p>16 MS. GAFKAY: Right. In other words, is</p> <p>17 there a different case or situation --</p> <p>18 THE WITNESS: No.</p> <p>19 MS. GAFKAY: -- where you sat through a</p> <p>20 deposition?</p> <p>21 THE WITNESS: No.</p> <p>22 MS. GAFKAY: I'm going to go through</p> <p>23 the instructions, even though you've sat through seven</p> <p>24 to eight depositions; one reason is, I want to</p> <p>25 instruct you about us not talking at the same time,</p>	<p>Page 4</p>	<p>1 I'm just trying to make sure we get a clear record;</p> <p>2 okay?</p> <p>3 THE WITNESS: Okay.</p> <p>4 MS. GAFKAY: We probably will take</p> <p>5 several hours, I'm not sure exactly how long it will</p> <p>6 take, a lot depends on different circumstances that I</p> <p>7 don't control necessarily. So you may want to take a</p> <p>8 break. You can take a break at any time. Your</p> <p>9 attorney may ask for a break, I may want to break, but</p> <p>10 the only thing that I ask is, if you want a break,</p> <p>11 that you answer any question pending. Can you do that</p> <p>12 for me?</p> <p>13 THE WITNESS: Sure.</p> <p>14 MS. GAFKAY: All right. Finally, it's</p> <p>15 very important that if you don't understand a question</p> <p>16 I ask you because I asked it poorly, for instance, or</p> <p>17 it's just not understandable, maybe I asked several</p> <p>18 questions all at once, and I'm not doing that</p> <p>19 intentionally, but maybe I have done that, it's</p> <p>20 important that you tell me if my question is not</p> <p>21 understandable to you. Can you do that for me?</p> <p>22 THE WITNESS: Sure.</p> <p>23 MS. GAFKAY: If you do answer the</p> <p>24 question, it will reflect, at least for me and for the</p> <p>25 jury when we do go to trial in this matter, that you</p>	<p>Page 6</p>

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1	understood the question when you answered it, if you	1	Q. And what county was that?
2	answer it; okay?	2	A. Genesee.
3	THE WITNESS: Okay.	3	Q. And what is your first wife's name?
4	MS. GAFKAY: Do you have any questions	4	A. Annette.
5	about the procedure?	5	Q. What is her last name?
6	THE WITNESS: No.	6	A. Jensen.
7	MS. GAFKAY: All right.	7	Q. J-e-n-s-o-n?
8	EXAMINATION	8	A. s-e-n.
9	BY MS. GAFKAY:	9	Q. s-e-n, okay. And do you have children?
10	Q. What is your date of birth?	10	A. Two.
11	A. 7/23/1959.	11	Q. And what are their names?
12	Q. Okay. And are you married?	12	A. Sheena and Derek.
13	A. No.	13	Q. Okay. And are they both over 18?
14	Q. Have you ever been married?	14	A. Yes.
15	A. Yes.	15	Q. Do they live in Genesee County?
16	Q. So are you divorced or are you widowed?	16	A. My daughter lives -- Sheena lives in Genesee County,
17	A. Divorced.	17	yes.
18	Q. And what year were you divorced?	18	Q. Where is your daughter currently employed?
19	A. 2019 or 2020 officially.	19	A. I believe she's self-employed.
20	Q. So the judgment of divorce was entered?	20	Q. And what does she do?
21	A. Right, but I was separated for -- since 2010.	21	A. She does DoorDash and -- I don't know, I don't know
22	Q. What is your ex-wife's name?	22	all the details, but I know she does a lot of
23	A. Jasmine.	23	DoorDash.
24	Q. And did she have your last name?	24	Q. Okay, fair enough. At some point in time, did Sheena
25	A. No.	25	work for the city of Flint?
Page 8		Page 10	
1	Q. What is her last name?	1	A. Yes.
2	A. Minai, M-i-n-a-i.	2	Q. Do you recall when that was?
3	Q. Okay. How many times have you been married?	3	A. Not exactly.
4	A. Twice.	4	Q. Okay. Was it within the last five years?
5	Q. So Jasmine is the last marriage, I assume?	5	A. Yes.
6	A. Correct.	6	Q. Last three years?
7	Q. And what county were you divorced in?	7	A. Yes.
8	A. Ingham County. Is Lansing Ingham County?	8	Q. Last two years?
9	Q. Yes, it is. I think that would be -- judicial notice	9	A. I don't remember.
10	would be taken on that, I think.	10	Q. So your best estimate is between two and three years
11	And is that -- do you live in Lansing?	11	ago she worked for the city of Flint?
12	A. No.	12	A. She worked there for two years up until the mayor --
13	Q. Do you live in Ingham County?	13	until they got the new mayor, whenever that was.
14	A. No.	14	Q. And what was the last position she held?
15	Q. What county do you live in?	15	A. I think she was Human Resources generalist.
16	A. Genesee County.	16	Q. And at the time that she no longer worked for
17	Q. Okay. And who do you reside with, if anyone else?	17	Genesee -- or excuse me -- for the city of Flint as a
18	A. Currently, I reside with my sister.	18	human resource generalist, your daughter, were you in
19	Q. Okay. What is your sister's name?	19	the position of managing director for Genesee County
20	A. Frahnaz, F-a -- no. F-r-a-h-n-a-z, last name is.	20	Road Commission at the time?
21	Q. What was -- and did your first marriage end in divorce	21	A. Yes.
22	as well?	22	Q. Okay. And Donna Poplar a subordinate of yours at that
23	A. Correct.	23	time?
24	Q. What year was that?	24	A. Yes.
25	A. 1999.	25	Q. Did you request that Donna write a letter on behalf of

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1	Sheena to the city of Flint?	1	Q. All right. So I assume you were happy for Sheena?
2	A. Yes.	2	A. Yes.
3	Q. And why did you do that?	3	Q. Do you have any reason to believe that Donna Poplar
4	A. I wanted her to stay with the city employed.	4	did anything inappropriate with regard to helping
5	Q. You wanted Sheena to stay employed?	5	Sheena get the job?
6	A. Yes.	6	A. No.
7	Q. So you asked Donna, your subordinate at the Road	7	Q. Now, we were talking about your background, and I went
8	Commission, to write a letter from Donna to the city	8	off into a different direction, so I'm going to pull
9	of Flint or from your daughter?	9	us back into your background a little bit.
10	A. To help my daughter to craft a letter so she could	10	Tell me about your educational
11	send it to the city.	11	background, please.
12	Q. Okay. And when you requested Donna do that, Donna did	12	A. Well, I have a master's degree in civil engineering, a
13	that; correct?	13	bachelor's, master's. I'm a licensed professional
14	A. Correct.	14	engineer since 1988, State of Michigan. Have been
15	Q. And, I mean, did you believe that Donna would be a	15	doing this type of work for decades, about three, and
16	useful resource as far as what to say in a letter to	16	I've been part-time professor of universities for
17	try to be reinstated?	17	almost 20 years.
18	A. At the time, yes.	18	Q. Okay. Since you started with the master's, we'll
19	Q. And I assume -- this sounds like it was -- it was a	19	start there. Where did you get your master's?
20	favor to you, something that would be favorable for	20	A. Wayne State University.
21	you; correct?	21	Q. What year?
22	A. I suppose so.	22	A. 1998.
23	Q. Yeah. And was that successful when your daughter sent	23	Q. And you got your bachelor's degree where?
24	the letter?	24	A. Louisiana State University, MSU 1981.
25	A. No.	25	Q. Okay. Where were you born and raised?
Page 12		Page 14	
1	Q. Did you blame Donna at all for what she recommended to	1	A. I was born in Iran.
2	put in the letter as the reason?	2	Q. And what year did you come to the United States?
3	A. Absolutely not.	3	A. January of 1977.
4	Q. Okay. Was Donna helpful? In your opinion, did she	4	Q. So when you were 18?
5	help at all in Sheena becoming employed with the city	5	A. Seventeen.
6	of Flint?	6	Q. Okay, 17 years old. Did you come with your parents?
7	A. That's what she said.	7	A. No.
8	Q. That's what who said?	8	Q. Came on your own?
9	A. That's what Donna told me.	9	A. Only me.
10	Q. Tell me what Donna said in that regard.	10	Q. And what was the reason you came?
11	A. That she helped her to get in with the city.	11	A. To go to college.
12	Q. Do you know how Donna helped?	12	Q. To go to Louisiana State?
13	A. No, I don't.	13	A. Well, I started at George Washington University when I
14	Q. And do you believe that Sheena was qualified to work	14	first came, and I was at that university for a year
15	for the city of Flint?	15	and a half, past 36 credit hours, and I transferred
16	A. I hope so.	16	down to Louisiana State University in 1978.
17	Q. Okay. I mean, you wanted your daughter to have a job	17	Q. Any other educational -- higher education other than
18	with the city of Flint, I assume?	18	what you've already testified to, the master's and
19	A. I wanted her to have a job, yes, a professional job.	19	bachelor's?
20	Q. And do you believe the city of Flint human resource	20	A. No. I mean, tons of training that I've been through
21	generalist --	21	in the past 40 years.
22	A. Was a good start. I'm sorry.	22	Q. Okay. You said you're licensed since 1988. Is that
23	Q. That's okay. Human resource position was a	23	current?
24	professional job?	24	A. Yes.
25	A. Yes.	25	Q. Has that ever lapsed at any time in that time frame?

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<p>1 A. No.</p> <p>2 Q. Have there ever been any complaints with regard to</p> <p>3 your license?</p> <p>4 A. Not at all.</p> <p>5 Q. What universities or colleges have you taught at?</p> <p>6 A. I taught at Baker College for 17 years, and I taught</p> <p>7 at Wayne State University for two years.</p> <p>8 Q. All right. And we've established -- I've asked about</p> <p>9 you being managing director at Genesee County Road</p> <p>10 Commission. I understand that is your current</p> <p>11 position; is that true?</p> <p>12 A. That's true.</p> <p>13 Q. Tell me when you became the managing director.</p> <p>14 A. August 1st, 19 -- 2018, I'm sorry.</p> <p>15 Q. That's okay. And were you employed with the Genesee</p> <p>16 County Road Commission before that?</p> <p>17 A. Yes. I've been here almost 20 -- 30 years.</p> <p>18 Q. All right. What was your position before?</p> <p>19 A. Director of Engineering, and county highway engineer</p> <p>20 for 13 years in that position; and I was 10 years in</p> <p>21 the Design Department, I was Design Department</p> <p>22 manager; and I was two years as construction engineer</p> <p>23 when I first started, so back in 1993.</p> <p>24 Q. That's what I was going to ask you. Do you know what</p> <p>25 your exact date of hire is or just 1993?</p>	<p>1 A. I believe I --</p> <p>2 -- the years?</p> <p>3 A. I'm sorry. I start too quick.</p> <p>4 Q. That's okay. Was it 2004?</p> <p>5 A. I believe it was 2005 when I started as director of</p> <p>6 Engineering at the county here.</p> <p>7 Q. And you held that position until you became managing</p> <p>8 director, so it would've been until --</p> <p>9 A. 2018.</p> <p>10 Q. Okay. And were the job duties, were they generally</p> <p>11 the same in that position, in the director of</p> <p>12 Engineering and county highway engineer position, the</p> <p>13 job duties, were they essentially the same for the --</p> <p>14 A. Oh, for the 13 years?</p> <p>15 Q. Yes.</p> <p>16 A. Yes.</p> <p>17 Q. I'm just trying to figure out, was there any big</p> <p>18 change in --</p> <p>19 A. Yeah, there --</p> <p>20 -- job duties during that 13 year time period.</p> <p>21 A. Yes, there was.</p> <p>22 Q. Let's talk about toward the end, in 2018, before you</p> <p>23 took the managing director position, generally tell me</p> <p>24 what your job duties were as director of Engineering</p> <p>25 and county highway engineering.</p>
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<p>1 A. I'm in my 30th year, so it had to be, like, June of</p> <p>2 1993; but I don't know the exact date, but I believe</p> <p>3 it's in June.</p> <p>4 Q. All right, fair enough. Have you been continuously</p> <p>5 employed from June 1993 to the present?</p> <p>6 A. Yes; in fact, I've been employed ever since I started</p> <p>7 this career with a private company.</p> <p>8 Q. Let's talk about Genesee County Road Commission.</p> <p>9 Always full time?</p> <p>10 A. Always full time.</p> <p>11 Q. How many lapses in employment, any --</p> <p>12 A. None.</p> <p>13 Q. -- leave of absences --</p> <p>14 A. None.</p> <p>15 Q. -- anything like that?</p> <p>16 A. Zero, none.</p> <p>17 Q. All right. So let's go to the director of Engineering</p> <p>18 and county highway engineer; is that what you said?</p> <p>19 A. Correct.</p> <p>20 Q. And you said you held that position, it sounds like,</p> <p>21 approximately 13 years before you became managing</p> <p>22 director?</p> <p>23 A. Correct.</p> <p>24 Q. Let's see if we can figure out the years. Can you</p> <p>25 tell me --</p>	<p>1 A. To give advice to the Maintenance Department, to order</p> <p>2 work for our Sign Shop, go out there and apply for</p> <p>3 grant money, federal money, state money, to get some</p> <p>4 projects funded; basically program all of our</p> <p>5 construction projects in Genesee County. Any</p> <p>6 activities in this county went to me.</p> <p>7 Q. Okay. And did you have individuals who reported to</p> <p>8 you?</p> <p>9 A. Yes.</p> <p>10 Q. In other words, did you have direct reports?</p> <p>11 A. What do you mean?</p> <p>12 Q. People who directly reported to you.</p> <p>13 A. Yes.</p> <p>14 Q. And how many people reported directly to you,</p> <p>15 approximately, if you don't know the exact number?</p> <p>16 A. Directly reported to me, probably five; one, two,</p> <p>17 three, four -- about five directly reported to me, but</p> <p>18 I had -- my department consisted of over 25, 30 people</p> <p>19 at one time.</p> <p>20 Q. Okay. And what department is that?</p> <p>21 A. Engineering Department.</p> <p>22 Q. And how many departments are there at the Genesee</p> <p>23 County Road Commission?</p> <p>24 A. Five.</p> <p>25 Q. Go ahead and list those for me.</p>

<p>Page 19</p> <p>1 A. Human Resources, Engineering, Maintenance, Finance. I 2 guess there's four -- and Administration, that's the 3 five. 4 Q. All right. So let's talk about when you took over 5 the -- well, let me ask you this first: When you went 6 from director of Engineering and county highway 7 engineer to managing director, was that a promotion? 8 A. Yes, it was. 9 Q. Do you know how much you were making at the end of 10 July of 2018, the highest wage you ever made as 11 director of Engineering, the salary? 12 A. I can't give you the exact number, but it was around 13 104,000 a year. 14 Q. And then when you accepted the Genesee County Road 15 Commission managing director position, what was your 16 salary? 17 A. A hundred thirty thousand. 18 Q. And what is it today? 19 A. A hundred forty-three thousand, roughly. 20 Q. Okay. So in four years, your salary has increased 21 approximately 13,000; is that right? 22 A. Four years of being managing director? 23 Q. Um-hum. 24 A. That's correct. 25 Q. Do you currently have an employment contract as</p>	<p>Page 21</p> <p>1 right? 2 A. Correct. 3 Q. Why do you not believe that's a contract? 4 A. Because I was told by an attorney. 5 MR. CASCINI: And I'm going to caution 6 you, please don't discuss anything about legal advice. 7 I'd also place an objection of, you 8 know, asked and answered. He's an engineer, he's not 9 an attorney. I don't know if that distinction is lost 10 on him. 11 Q. (BY MS. GAFKAY) I appreciate your attorney's 12 objection and instruction, and I will also echo that. 13 I apologize if I ask you anything that interferes or 14 asks you to disclose anything that's confidential 15 between you and your attorney that was discussed. 16 That's not my intent, and I will let your attorney 17 intervene if I do ask a question that requires that; 18 okay? 19 A. Okay. 20 Q. Before we leave this subject, though, let me just ask 21 you this: Are your terms and conditions of employment, 22 which have been agreed upon between Genesee County 23 Road Commission and yourself, in writing in some form? 24 A. Yes. 25 Q. And signed by you?</p>
<p>Page 20</p> <p>1 managing director? 2 A. Yes, I do. 3 Q. And when did you enter into any type of employment 4 contract with regard to the terms and conditions of 5 your position as managing director? 6 A. When I first became managing director. It wasn't a 7 contract, it was an agreement that was approved by the 8 Board. 9 Q. Okay. Do you think -- do you agree that an agreement 10 is -- do you believe an agreement is the same as a 11 contract? 12 A. No, I don't. 13 Q. Okay. So let me ask the question again. Have you 14 ever been under a contract, an employment contract, as 15 managing director? 16 A. No. 17 Q. All right. Are there terms and conditions of your 18 position that are in writing that have been approved 19 by Genesee County Road Commission and yourself? 20 A. Yes. 21 Q. All right. So there's been an agreement? 22 A. Correct. 23 Q. Is that your understanding? 24 A. Correct. 25 Q. All right. And the terms and conditions are specific;</p>	<p>Page 22</p> <p>1 A. And the Board. 2 Q. Okay. And where is that? 3 A. It's in my file. 4 Q. And that's been in existence since you started? 5 A. Correct. 6 Q. All right. 7 MR. CASCINI: To the extent you want a 8 copy of that, I don't believe it's been requested or 9 disclosed in discovery, but we can do that -- 10 MS. GAFKAY: Sure, that and any 11 amendments or any additional ones. 12 MR. CASCINI: Maddy, can you make a 13 note of that, please. 14 MS. GAFKAY: Okay. Thank you. 15 Q. (BY MS. GAFKAY) Okay. So let's talk about the 16 different departments. You told me the five. 17 A. Um-hum. 18 Q. So let's start with -- let me ask you this first: 19 When you became managing director in August of 2018, 20 did the departments each have a director? 21 A. Yes. 22 Q. Okay. So tell me who the directors were at that time. 23 A. Anthony Branch was the director of Maintenance. I'm 24 sorry. When I came onboard, I'm sorry, director of 25 Engineering was not there because he came in after I</p>

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1	hired in.	1	Q. Did you have any letters of recommendation from any
2	Q. Oh, I understand, okay, but --	2	individuals at the Genesee County Road Commission that
3	A. Just so you know.	3	you submitted in support of your promotion?
4	Q. So let's talk about that. You were the Engineering	4	A. I have numerous supports from various entities in
5	director; is that right?	5	Genesee County.
6	A. And managing director at the same time for at least a	6	Q. Okay. So my question specifically is relating to
7	month or two before I hired somebody --	7	employees of the Genesee County Road Commission.
8	Q. Okay.	8	A. No -- well, yes, as a matter of fact.
9	A. -- to take that position.	9	Q. And who provided a letter of support who was a current
10	Q. But there was still, I assume -- let me ask you: When	10	Genesee County Road Commission employee?
11	you became managing director, was there still a slot	11	A. Current, I don't exactly remember, but I know I had
12	for a director for the Engineering Department?	12	support from the supervisors in the Maintenance
13	A. Yes.	13	Department and all the folks in the Engineering
14	Q. So tell me who was the first person that filled that	14	Department.
15	position?	15	Q. And did all those people --
16	A. Eric Johnston.	16	A. As a whole, they -- I'm sorry, go ahead.
17	Q. With a "t"?	17	Q. That's okay. Did all of those people submit a letter
18	A. "t," yeah.	18	of support?
19	Q. And then --	19	A. Not individually; as a team, as a group.
20	A. And then Coetta Adams was the Finance director, and	20	Q. They all signed on to some type of letter?
21	then Donna Poplar was the HR director.	21	A. Yes, to my knowledge.
22	Q. And Administration, would that be the managing	22	MS. GAFKAY: Can I have that letter as
23	director, yourself?	23	well? Okay.
24	A. Correct. And also, I'm sorry, Randy Dellaposta was	24	THE WITNESS: Letter of support from
25	the director of Fleet Maintenance and Facilities.	25	many supervisors.
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1	Actually I have six departments, then; right? Yeah.	1	Q. (BY MS. GAFKAY) Okay. I imagine that there was at
2	Q. And that would -- so that department, the sixth one,	2	least one supervisory employee in the Maintenance
3	is the --	3	Department who did not sign the letter --
4	A. Fleet Maintenance and Facilities.	4	MR. CASCINI: Objection; lack of
5	Q. So from the time that you assumed the managing	5	foundation.
6	director position to the present, if there's been any	6	Q. (BY MS. GAFKAY) -- is that right?
7	changes in those director positions, can you tell me	7	A. I don't know. I'm not aware of it.
8	what those have been?	8	Q. Was Anthony Branch a supervisor in --
9	A. Changes we've made was, we made director of Fleet	9	A. No, Anthony Branch was a director.
10	Maintenance and Facilities, changed his position to be	10	Q. Okay. But you don't consider him a supervisory --
11	a director of Operations for a couple years; and then	11	A. No.
12	ultimately, he became deputy managing director, and	12	Q. -- employee?
13	that's what his current position is.	13	A. No.
14	Q. Are all the other directors the same currently?	14	Q. I see; higher because he's --
15	A. Correct.	15	A. He's higher than a supervisor, yes.
16	Q. All right. When you went from -- we talked about the	16	Q. Did he sign on to any type of letter to support you
17	fact that it was a promotion to go from director of	17	for the managing director position?
18	Engineering to managing director; correct?	18	A. Not that I know of.
19	A. Correct.	19	Q. So as managing director, can you tell me what your
20	Q. So did you have to apply for that position?	20	general job duties are?
21	A. Yes.	21	A. To oversee the total operation of this organization.
22	Q. Did you apply for that position?	22	Q. And tell me, the organization is Genesee County Road
23	A. Yes.	23	Commission?
24	Q. Did you interview for that position?	24	A. What's the question again?
25	A. Yes.	25	Q. I'm just -- there's some things I ask you that seem

<p style="text-align: right;">Page 27</p> <p>1 obvious, but I try to get it out for the record, okay.</p> <p>2 So the organization, is it Genesee County Road</p> <p>3 Commission?</p> <p>4 A. That's correct.</p> <p>5 Q. And what is the function of the Genesee County Road</p> <p>6 Commission, in your own words?</p> <p>7 A. To take care of our county roads and bridges.</p> <p>8 Q. Now, we talked about the fact that Donna Poplar was</p> <p>9 the director of Human Resources when you became the</p> <p>10 managing director; correct?</p> <p>11 A. Correct.</p> <p>12 Q. All right. So were you involved at all in the hire of</p> <p>13 Donna Poplar to the Genesee County Road Commission?</p> <p>14 A. No.</p> <p>15 Q. Who did you replace as managing director?</p> <p>16 A. John Daly.</p> <p>17 Q. Had John Daly been your supervisor, your -- did you</p> <p>18 report to John Daly before he left and you assumed</p> <p>19 that role of --</p> <p>20 A. Correct.</p> <p>21 Q. -- managing director? Okay.</p> <p>22 Before you became managing director,</p> <p>23 did you know Donna Poplar?</p> <p>24 A. Yes.</p> <p>25 Q. And how did you know her?</p>	<p style="text-align: right;">Page 29</p> <p>1 A. To handle employment issues that we have in this</p> <p>2 organization.</p> <p>3 Q. Okay. And were you familiar with Donna Poplar's</p> <p>4 background, that she had human resource experience in</p> <p>5 the past?</p> <p>6 A. I've heard of it.</p> <p>7 Q. And we already talked about the fact that when you</p> <p>8 were managing director, you asked Donna to assist your</p> <p>9 daughter with creating or drafting a letter to the</p> <p>10 city of Flint; correct?</p> <p>11 A. Correct.</p> <p>12 Q. And so Ms. Poplar is certainly qualified to be the</p> <p>13 director of Human Resources for Genesee County Road</p> <p>14 Commission; true?</p> <p>15 A. I don't know.</p> <p>16 Q. Well, she meets the qualifications for the director of</p> <p>17 Human Resources, doesn't she?</p> <p>18 A. I haven't seen her resume. I really don't know.</p> <p>19 Q. When Donna Poplar -- excuse me, strike that.</p> <p>20 When you first became the managing</p> <p>21 director, Donna Poplar was someone who reported</p> <p>22 directly to you as director of Human Resources; is</p> <p>23 that right?</p> <p>24 A. After I became managing director?</p> <p>25 Q. Yes.</p>
<p style="text-align: right;">Page 28</p> <p>1 A. When she was hired in.</p> <p>2 Q. And I was going to ask, and I'll just ask you for</p> <p>3 completeness, did you know Donna Poplar before she</p> <p>4 became an employee of Genesee County Road Commission?</p> <p>5 A. No, I did not.</p> <p>6 Q. Do you recall that she began her employment, Donna</p> <p>7 began her employment, in October of 2006?</p> <p>8 A. Sometime 2006.</p> <p>9 Q. I'm sorry, 2016, excuse me.</p> <p>10 A. 2016, yeah.</p> <p>11 Q. All right. But at some point you had met her in her</p> <p>12 role as director of Human Resources; true?</p> <p>13 A. True.</p> <p>14 Q. From the time that Donna was hired until you became</p> <p>15 managing director, did you have any problems with</p> <p>16 Donna Poplar?</p> <p>17 A. No.</p> <p>18 Q. And Donna, we've established, was the director of</p> <p>19 Human Resources, and that's still her role today;</p> <p>20 true?</p> <p>21 A. Correct.</p> <p>22 Q. And so when you assumed the managing director</p> <p>23 position, what was your understanding as to generally</p> <p>24 what her responsibilities as director of Human</p> <p>25 Resources were?</p>	<p style="text-align: right;">Page 30</p> <p>1 A. Yes.</p> <p>2 Q. Okay. And you certainly wouldn't have retained Donna</p> <p>3 Poplar at the time that you assumed the managing</p> <p>4 director role if she was not qualified, would you?</p> <p>5 MR. CASCINI: Objection; foundation and</p> <p>6 assumes facts not in evidence.</p> <p>7 THE WITNESS: I had no choice.</p> <p>8 Q. (BY MS. GAFKAY) Why do you say that?</p> <p>9 A. Because she was already an HR director.</p> <p>10 Q. Okay. But she was going to report directly to you --</p> <p>11 or she did report directly to you when you became</p> <p>12 managing director?</p> <p>13 A. Right, she did.</p> <p>14 Q. Okay. Let me ask you this way: Is there any reason</p> <p>15 to believe, when you assumed the managing director</p> <p>16 role and Donna Poplar was in the director of Human</p> <p>17 Resources role, do you have any basis or reason to</p> <p>18 believe that she was not qualified for the director of</p> <p>19 Human Resources for Genesee County Road Commission?</p> <p>20 MR. CASCINI: Objection as to form.</p> <p>21 When he became managing director, Julie? Is that what</p> <p>22 you're asking, that time frame?</p> <p>23 MS. GAFKAY: Yes, yes.</p> <p>24 THE WITNESS: Say it again, ask your</p> <p>25 question again.</p>

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<p>1 Q. (BY MS. GAFKAY) Sure. Any reason to believe that 2 Donna Poplar was not qualified to be the director of 3 Human Resources for Genesee County Road Commission? 4 A. No. 5 Q. I'll have you look at Exhibit 4, which has been 6 previously marked as an exhibit. Have you ever seen 7 what's been marked as Exhibit 4 before? 8 A. Yes. 9 Q. It appears to be an employment agreement for Ms. 10 Poplar with regard to her employment with Genesee 11 County Road Commission dated December 15th, 2017; is 12 that right? 13 A. Correct. 14 Q. Now, Ms. Poplar, if you know, in December of 2017, was 15 she a member of a union? 16 A. I'm sorry? 17 Q. Was Ms. Poplar a member of a union in December of 18 2017? 19 A. No, she was not. 20 Q. Okay. Is she a member of a union now? 21 A. No, she's not. 22 Q. All right. In December of 2017 when this employment 23 agreement between Ms. Poplar and Genesee County Road 24 Commission was entered into, were you the managing 25 director?</p>	<p>1 the contract is valid, it's for the judge, not this 2 witness. 3 MS. GAFKAY: I'm not asking the 4 validity. I'm asking what it says on its face. 5 THE WITNESS: That's what it says on 6 its face, yes. 7 Q. (BY MS. GAFKAY) According to this agreement, are you 8 aware that, under the agreement, Ms. Poplar's 9 employment can only be terminated with just cause 10 according to paragraph four? 11 A. To be honest with you, I've never read this agreement. 12 Q. Do you know it exists? 13 A. I know it exists, but I never saw it to read it. 14 Q. And did you know it existed when you were her -- 15 A. It existed -- 16 Q. -- when she directly reported to you? 17 A. Yes. But existed between her and the previous 18 managing director. 19 Q. Okay. I understand that you weren't the managing 20 director at the time; you've already established that 21 for the testimony. 22 So let me ask you this: As far as Ms. 23 Poplar, we testified -- we talked about the fact that 24 she was one of your direct reports when you became 25 managing director. Did you have any problems with --</p>
Page 32	Page 34
<p>1 A. No. 2 Q. And according to this agreement, it is renewed year to 3 year; is that your understanding? 4 A. Yes. 5 Q. And so, to your knowledge, had this employment 6 agreement between Donna Poplar and the Genesee County 7 Road Commission ever not been renewed since it was 8 entered into? 9 A. Correct. My understanding, this agreement is not 10 between Donna Poplar and Genesee County Road 11 Commission. It's between Donna Poplar and managing 12 director. 13 Q. All right. Well, let's look at the employment 14 agreement language. The first paragraph of this, do 15 you agree it says, "This Employment Agreement is 16 entered into this the 14th day of December, 2017, 17 between the Genesee County Road Commission hereinafter 18 'Commission' and Mrs. Donna Poplar"? Do you see that? 19 A. Yes. 20 Q. So contrary to what you just said in your testimony, 21 the agreement actually says it's between Donna Poplar 22 and the Genesee County Road Commission, doesn't it? 23 MR. CASCINI: Objection, it 24 misconstrues his prior testimony; and objection, 25 argumentative. If you want to debate whether or not</p>	<p>1 have you had any problems with regard to her 2 performance since becoming her supervisor? 3 A. Yes. 4 Q. And any problems with regard to Ms. Poplar's 5 employment, I assume you would -- would you reduce 6 those issues to writing? 7 A. No, I did not. 8 Q. All right. Have you ever? 9 A. We've talked about it verbally. 10 Q. Have you ever provided Ms. Poplar with any form of 11 written discipline? 12 A. Only once. 13 Q. Okay. And was that in August of 2021? 14 A. I don't remember. 15 Q. All right. Go ahead and look at what's been marked as 16 Exhibit 16, and I will ask you about this in more 17 detail later; but my question is, you testified that 18 one time you provided Ms. Poplar with written 19 discipline. Is this, Exhibit 16, dated August 19, 20 2021, the one time that you gave Ms. Poplar a written 21 disciplinary notice? 22 A. If this is the two-week suspension, yes. 23 Q. Well, you're welcome to read it. I want to make sure 24 you're clear in your testimony. 25 A. (Reviewing document) Yes.</p>

<p style="text-align: right;">Page 35</p> <p>1 Q. Just for the record, what is your race?</p> <p>2 A. What is my race?</p> <p>3 Q. Yes.</p> <p>4 A. Iranian-American, I guess.</p> <p>5 Q. And let's talk about Ms. Poplar's employment as</p> <p>6 director of Human Resources. During her employment --</p> <p>7 or during the time that she's been the director of</p> <p>8 Human Resources while you've been the managing</p> <p>9 director, has she initiated different ways in which</p> <p>10 the Road Commission can save money?</p> <p>11 A. Not to my knowledge.</p> <p>12 Q. Has she proposed ways in which the Road Commission can</p> <p>13 save money?</p> <p>14 A. Absolutely not.</p> <p>15 Q. So you don't believe at any time Ms. Poplar has ever</p> <p>16 proposed cost savings for the Road Commission?</p> <p>17 A. Not at all.</p> <p>18 Q. In either 2020 or 2021, was there a time that Donna</p> <p>19 asked to do a presentation to the Genesee County Road</p> <p>20 Commission Board about the Human Resources Department</p> <p>21 and where things stood? Do you recall her asking</p> <p>22 you --</p> <p>23 A. I believe so.</p> <p>24 Q. Do you recall when that was?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 37</p> <p>1 to the Genesee County Road Commission regarding roads</p> <p>2 to bridges?</p> <p>3 A. No, not to my knowledge. We do a lot of presentation</p> <p>4 to Roads and Bridges Committee, which is an hour</p> <p>5 before the Board meeting starts. We typically have</p> <p>6 some sort of presentation to make to all the</p> <p>7 supervisors in this county once a month, but never to</p> <p>8 the Board as a full -- to the full Board.</p> <p>9 Q. Is every member of the Commission a member of the</p> <p>10 Roads and Bridges Committee, if you know?</p> <p>11 A. No.</p> <p>12 Q. Do you recall Randy Dellaposta -- you're saying he may</p> <p>13 have done a presentation to the Roads and Bridges</p> <p>14 Committee. Do you recall that all the Commission was</p> <p>15 present when he did that?</p> <p>16 A. Typically they are present. You're talking about Road</p> <p>17 Commission?</p> <p>18 Q. Yes, the Road --</p> <p>19 A. Yes, they --</p> <p>20 Q. -- Commission Board?</p> <p>21 A. -- typically are present at the Roads and Bridges</p> <p>22 meeting that we have. It starts at 9:00, and it ends</p> <p>23 at 10:00, and that's when our Board starts, at 10:00.</p> <p>24 Q. Okay. Is there a human resource committee with the</p> <p>25 Genesee County Road Commission?</p>
<p style="text-align: right;">Page 36</p> <p>1 Q. Do you recall declining her request to speak to the</p> <p>2 Board about the state of affairs of the Human Resource</p> <p>3 Department?</p> <p>4 A. Yes.</p> <p>5 Q. And why did you reject Donna's request to speak to the</p> <p>6 Board about the Human Resource Department?</p> <p>7 A. Because I didn't have any -- we didn't have anything</p> <p>8 like this from other directors that wanted to present</p> <p>9 it to the Board. So this was the only one that she</p> <p>10 wanted to do to present to the Board, and I declined.</p> <p>11 Q. Had that been something -- do you recall that before</p> <p>12 Covid, Donna had been approved to speak directly to</p> <p>13 the Board about the Human Resources Department? Do</p> <p>14 you have knowledge of that?</p> <p>15 A. I don't remember.</p> <p>16 Q. So in Donna Poplar's Complaint in this case, she</p> <p>17 alleges that she initiated numerous cost savings</p> <p>18 initiatives resulting in more than 300,000 in yearly</p> <p>19 savings to the Genesee County Road Commission. Do you</p> <p>20 agree with that?</p> <p>21 A. No.</p> <p>22 Q. In fact, your testimony is, she has done nothing to</p> <p>23 initiate or propose any type of cost savings?</p> <p>24 A. Correct.</p> <p>25 Q. Did Randy Dellaposta ever do any type of presentation</p>	<p style="text-align: right;">Page 38</p> <p>1 A. Not that I know of.</p> <p>2 Q. I mean, sometimes boards or commissions have a</p> <p>3 separate human resource committee.</p> <p>4 A. No, no.</p> <p>5 Q. What other committees does the Commission have?</p> <p>6 A. We have Safety Committee, and we just formed a DEI</p> <p>7 Committee, which is diversity -- help me out --</p> <p>8 inclusion. Those are the two committees that I'm</p> <p>9 aware of, Safety and DEI.</p> <p>10 Q. You said DEI. Do you know what the "E" is?</p> <p>11 A. Equity; Diversity, Equity, Inclusion.</p> <p>12 Q. When was that formed?</p> <p>13 A. DEI was formed, I want to say, couple, three months</p> <p>14 ago.</p> <p>15 Q. Any --</p> <p>16 A. I'm guessing, please.</p> <p>17 Q. Any other committees that you're aware of?</p> <p>18 A. No.</p> <p>19 Q. Do you know any of the reasons why the DEI Committee</p> <p>20 was created by the Board?</p> <p>21 A. It was requested by HR, and then we agreed to that.</p> <p>22 Q. So was it -- you've testified Donna is the director of</p> <p>23 HR. Did Donna Poplar request the DEI Committee be</p> <p>24 formed?</p> <p>25 A. Correct, yeah.</p>

<p style="text-align: right;">Page 39</p> <p>1 Q. Do you agree or disagree or do you not have an opinion 2 regarding the formation of the DEI Committee? 3 A. I definitely agree. 4 Q. Have there, since you've been managing director to the 5 present, have there been complaints from African- 6 American employees regarding discrimination at the 7 Road Commission? 8 A. I've heard of it, but I didn't know it came to me 9 directly. 10 Q. Okay. Who have you heard of making complaints of 11 racial discrimination? 12 A. Well, one of the HR directors. That's all she talks 13 about; and I've heard some comments about the county 14 commissioners, that we have some racial issues at this 15 Road Commission. 16 Q. Anyone else? 17 A. And one of our Board member, Mr. Dickerson. 18 Q. Mr. Dickerson, what did you hear regarding that? 19 A. He always complains to me that we need to take care of 20 the racial issues that we have at this Road 21 Commission. 22 Q. So you testified that all she talks about, you're 23 talking about Donna Poplar, is race discrimination? 24 A. Well, I mean, a lot of discussion she has is about 25 race-related issues.</p>	<p style="text-align: right;">Page 41</p> <p>1 A. When I became managing director. 2 Q. Okay. And in part, do you agree that the relationship 3 is not good because of her belief and her talking 4 about the fact that she believes there's racial 5 discrimination? 6 MR. CASCINI: Objection; compound 7 question. 8 THE WITNESS: No, it's not just about 9 that, no. 10 Q. (BY MS. GAFKAY) Okay. But in part about that? 11 A. No. 12 MR. CASCINI: Objection; misconstrues 13 prior testimony. 14 Q. (BY MS. GAFKAY) When you became managing director, 15 did Donna Poplar make complaints of race 16 discrimination? 17 A. Don't remember. 18 Q. Has Donna Poplar made complaints of race 19 discrimination, to your knowledge, since you became 20 managing director? 21 A. I don't remember. 22 Q. Okay. So my question is asking you generally, and 23 then we can talk more specifically about who the 24 complaints relate to. 25 So is it your testimony that you don't</p>
<p style="text-align: right;">Page 40</p> <p>1 Q. And have you told her to shut up? 2 A. No. 3 Q. Have you told her to do what you tell her to do? 4 A. No. 5 Q. Ms. Poplar testified that you told her to shut up and 6 do what you told her to do? 7 A. That's a big lie. 8 Q. Have you ever pointed at Donna when you were telling 9 her something? 10 A. Absolutely not. 11 Q. You haven't pointed your finger in any way at any time 12 when you've talked to her? 13 A. Nobody. 14 Q. You don't point your finger at anybody at any time -- 15 A. At this organization. 16 Q. Never? 17 A. Never. 18 Q. How would you describe your relationship with Donna 19 Poplar? 20 A. Not good. 21 Q. And when do you believe that the relation -- has it 22 always not been good? 23 A. Pretty much, yes. 24 Q. So since you became or -- since you became employed? 25 At what point would you say that that is when it began?</p>	<p style="text-align: right;">Page 42</p> <p>1 remember Donna Poplar making any type of racial 2 discrimination complaints since you became managing 3 director? 4 A. You mean from her directly? 5 Q. Yes, her making complaints of racial discrimination. 6 A. Well, yes. I mean, she complained about that, yes. 7 Q. All right. So from the time you became managing 8 director to today, has Donna Poplar made complaints of 9 race discrimination? 10 A. Correct. 11 Q. When was the first time that you recall her making a 12 complaint of race discrimination? 13 A. I believe it was January of 2020 -- 14 Q. Okay. 15 A. -- but I'm not sure. It was sometime early part of 16 2020. 17 Q. All right. And you understood that that -- that she 18 was complaining about race discrimination in January 19 of 2020; true? 20 A. Yes. 21 Q. And that you had -- that specifically she was 22 complaining that you had discriminated against her 23 based on her race? 24 A. Absolutely not. 25 Q. Okay. My question is, do you understand that Donna</p>

<p style="text-align: right;">Page 43</p> <p>1 Poplar was making a complaint about you discriminating</p> <p>2 against her?</p> <p>3 A. Yes.</p> <p>4 Q. All right. Do you deny that?</p> <p>5 A. Yes.</p> <p>6 Q. Did you agree with Ms. Poplar's complaint?</p> <p>7 MR. CASCINI: Objection; vague, agree</p> <p>8 with it?</p> <p>9 THE WITNESS: No.</p> <p>10 Q. (BY MS. GAFKAY) Were you upset with it?</p> <p>11 A. Well, I was upset personally, yeah.</p> <p>12 Q. Was that investigated?</p> <p>13 A. Yes.</p> <p>14 Q. And who -- let me ask you this: Were you involved in</p> <p>15 who would -- who would conduct the investigation?</p> <p>16 A. No; that was the Board's decision.</p> <p>17 Q. And did you talk to anybody during the investigation?</p> <p>18 A. I interviewed the attorney who was doing the</p> <p>19 investigation.</p> <p>20 Q. And who was present during the time that you</p> <p>21 interviewed with the attorney?</p> <p>22 A. It was Mr. Craig Lange; he was the attorney</p> <p>23 investigating the complaint.</p> <p>24 Q. Just you and him?</p> <p>25 A. Correct, in my office.</p>	<p style="text-align: right;">Page 45</p> <p>1 Q. Okay. So my question was, you've testified you felt</p> <p>2 she was wrong for bringing the complaint. Is that a</p> <p>3 reason you issued the directives to her?</p> <p>4 A. Not --</p> <p>5 MR. CASCINI: I think that misconstrues</p> <p>6 the prior testimony. The objection has been placed on</p> <p>7 the record. I'm not sure I got it in on time.</p> <p>8 THE WITNESS: Not completely, no.</p> <p>9 Q. (BY MS. GAFKAY) Would you characterize the directives</p> <p>10 as being a form of corrective action?</p> <p>11 A. Yes.</p> <p>12 Q. And an employee gets corrective action as a form of</p> <p>13 discipline; true?</p> <p>14 A. No.</p> <p>15 Q. What action were you correcting?</p> <p>16 A. I wanted to have something in writing for her to</p> <p>17 understand who is the boss here.</p> <p>18 Q. And who is the boss?</p> <p>19 A. Me, Fred Peivandi, managing director.</p> <p>20 Q. And do you believe that she did not appreciate that</p> <p>21 you were the boss?</p> <p>22 A. Correct, absolutely.</p> <p>23 Q. Because she complained about you to the Board of -- to</p> <p>24 the Board of Commissioners?</p> <p>25 MR. CASCINI: Objection; that</p>
<p style="text-align: right;">Page 44</p> <p>1 Q. Did you give him any documents?</p> <p>2 A. Probably. I don't remember, but I'm pretty sure I</p> <p>3 have, but I don't remember what documents I gave him.</p> <p>4 Q. Okay. To your knowledge, did Mr. Lange or anybody</p> <p>5 else have any conclusion as to the investigation or</p> <p>6 the results of the investigation?</p> <p>7 A. Can you ask that question again?</p> <p>8 Q. Sure. What was the result, if any, of the</p> <p>9 investigation, to your knowledge?</p> <p>10 A. The allegation was not sustained.</p> <p>11 Q. And how did you feel about the results?</p> <p>12 A. I feel good about it.</p> <p>13 Q. Did that make you feel as though -- well, strike that.</p> <p>14 When you got those -- that result that</p> <p>15 it was not sustained, according to your testimony, did</p> <p>16 you believe that Donna Poplar was wrong for making the</p> <p>17 complaint?</p> <p>18 A. Yes.</p> <p>19 Q. And did you issue her directives because you felt she</p> <p>20 was wrong to make that complaint?</p> <p>21 A. I felt like I had to do something; that's why I came</p> <p>22 up with those directives --</p> <p>23 Q. Well, you testified --</p> <p>24 A. -- based on the result that we received from the</p> <p>25 attorney.</p>	<p style="text-align: right;">Page 46</p> <p>1 misconstrues prior testimony.</p> <p>2 THE WITNESS: She was against my</p> <p>3 appointment as managing director from day one, August</p> <p>4 1st, when she came down to my office.</p> <p>5 Q. (BY MS. GAFKAY) What did she do or say that makes you</p> <p>6 believe she was against it?</p> <p>7 A. She tried to rally support from other directors</p> <p>8 against me.</p> <p>9 Q. Did Ms. Poplar believe, to your knowledge, that there</p> <p>10 may have been discrimination in your selection?</p> <p>11 MR. CASCINI: Objection; speculation,</p> <p>12 calls for speculation.</p> <p>13 Q. (BY MS. GAFKAY) If you know.</p> <p>14 A. Selection, what selection?</p> <p>15 Q. As managing director.</p> <p>16 A. What do you mean by that, discrimination by my</p> <p>17 selection?</p> <p>18 Q. Did Ms. Poplar believe that there was racial</p> <p>19 discrimination with regard to you being selected over</p> <p>20 Anthony Branch?</p> <p>21 A. Yes.</p> <p>22 MR. CASCINI: Same objection.</p> <p>23 THE WITNESS: I believe so, yeah.</p> <p>24 Q. (BY MS. GAFKAY) And you knew that, when you assumed</p> <p>25 the position of managing director, that Donna had that</p>

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1 belief, that there was discrimination because you were
2 selected over Anthony Branch? You knew that; right?
3 A. Not at first. Then it became very -- after Anthony
4 Branch filed a lawsuit against the Road Commission.
5 Q. And as part of that lawsuit, Ms. Poplar was a witness;
6 is that true?
7 A. She was deposed.
8 Q. Right. I mean, she was a witness for Anthony Branch,
9 wasn't she?
10 A. Correct.
11 Q. And it became abundantly clear to you that Ms. Poplar
12 believed that there was discrimination, race
13 discrimination, with regard to Anthony Branch not
14 being selected?
15 MR. CASCINI: Objection; foundation.
16 THE WITNESS: Yes.
17 MR. CASCINI: Misconstrues his prior
18 testimony.
19 Q. (BY MS. GAFKAY) And you were upset with Ms. Poplar,
20 weren't you?
21 A. No, not really.
22 Q. You were upset with her after she testified under oath
23 in the Anthony --
24 A. No, I was not.
25 Q. -- Branch matter?

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1 A. No, I was not.
2 Q. Were you upset with her testimony?
3 A. Personally upset because she brought up my personal
4 issues at the deposition.
5 Q. What personal issues?
6 A. About my daughter, my grandkids, so on and so forth.
7 That's what I was upset about personally; but I didn't
8 mix that with my professional side of things.
9 Q. Go on.
10 A. That's all.
11 Q. Do you recall talking to Ms. Poplar about her
12 testimony in the Anthony Branch case after her
13 testimony, after her deposition?
14 A. I remember telling her, I don't -- I didn't appreciate
15 that you brought up my personal family members in that
16 deposition.
17 Q. Okay. So there was a conversation after Donna Poplar
18 testified in her deposition between you and her about
19 what she testified to; true?
20 A. Yes.
21 Q. And you told her you didn't appreciate what she
22 testified about; right?
23 A. About my family members in that deposition, yes.
24 Q. And you used the term, you did not appreciate what she
25 said; true?

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1 A. Correct.
2 Q. So you testified that you object that she, Donna
3 Poplar, objected to you being managing director from
4 day one. Do you recall that testimony?
5 A. Yes.
6 Q. So other than what you've already testified to, is
7 there anything else that leads you to believe that she
8 objected to you as managing director from day one?
9 A. I remember she made a comment. The first day I was
10 appointed managing director, she came down to my
11 office and said, "Oh, you're going to stay another
12 three years, huh?"; just like that, and I'll never
13 forget it.
14 Q. Other than those words, did she use any other words
15 that led you to believe she objected to you being
16 managing director?
17 A. No.
18 Q. So let's talk about what she actually said or what
19 you're testifying she said. Tell me what that meant
20 to you?
21 A. It meant to me that, you're going to be retiring with
22 your last best three years at the Road Commission in
23 terms of salary.
24 Q. I see.
25 A. That's why she brought up, "Oh, you're going to be

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1 here another three years, huh?" I remember that
2 vividly.
3 Q. Okay. Did you say to her --
4 A. No.
5 Q. Did you respond to her in any way?
6 A. No.
7 Q. I mean, it's true, you make more now as managing
8 director than you did as director of Engineering;
9 correct?
10 A. Yes.
11 Q. So, I mean, did you think that -- were you offended by
12 the comment?
13 A. Not really.
14 Q. Why has it had such an impact on you?
15 A. It didn't. I'm still here after four years.
16 Q. And at the time that she made the comment -- when you
17 first became managing director, had you already been
18 at the Road Commission over three decades, so 30 years?
19 A. Twenty-five years.
20 Q. Okay. Are you part of the defined benefit plan?
21 A. Correct.
22 Q. And under the defined benefit plan, after how many
23 years can you retire?
24 A. Twenty-five.
25 Q. Okay. So when you became managing director, you were

<p>Page 51</p> <p>1 eligible to retire under the defined benefit plan?</p> <p>2 A. Correct.</p> <p>3 Q. And you chose not to?</p> <p>4 A. Correct.</p> <p>5 Q. And I also assume -- well, I don't want to assume</p> <p>6 anything.</p> <p>7 Under that defined benefit plan, does</p> <p>8 the calculation as to what you get as your pension</p> <p>9 benefit, is that based on your last best three years?</p> <p>10 A. That's correct. No; last three best years? The best</p> <p>11 three years of your salary.</p> <p>12 Q. And has the last three years been your best three</p> <p>13 years?</p> <p>14 A. That's correct.</p> <p>15 Q. Will that have, to your knowledge, a positive effect</p> <p>16 on your pension if you ever do decide to retire?</p> <p>17 A. Of course.</p> <p>18 Q. And as the HR director, is Donna familiar with the</p> <p>19 pension plan?</p> <p>20 A. I hope so.</p> <p>21 Q. I mean, is that one of her duties and responsibilities</p> <p>22 administering that or having knowledge of the pension?</p> <p>23 A. I believe so, yes.</p> <p>24 MR. CASCINI: If we're about to move on</p> <p>25 to the next line of questioning, if we can do just a</p>	<p>Page 53</p> <p>1 But the Board has always been your supervisor --</p> <p>2 A. As managing director.</p> <p>3 Q. -- and they have never issued any directives to you at</p> <p>4 any time?</p> <p>5 A. Absolutely not.</p> <p>6 MS. GAFKAY: We can take a quick break</p> <p>7 or how ever long you want to.</p> <p>8 (Recess taken.)</p> <p>9 MS. GAFKAY: We're back on the record.</p> <p>10 Do you understand that you're still under oath?</p> <p>11 THE WITNESS: Yes.</p> <p>12 Q. (BY MS. GAFKAY) Okay. All right. Just so I'm clear,</p> <p>13 do you recall that Anthony Branch brought a lawsuit</p> <p>14 against Genesee County Road Commission after you</p> <p>15 became managing director for race discrimination?</p> <p>16 A. Yes.</p> <p>17 Q. Did Donna Poplar testify -- you testified already that</p> <p>18 she did, but I just want to make sure, my</p> <p>19 understanding is that she testified in a deposition in</p> <p>20 that case; is that right?</p> <p>21 A. Correct.</p> <p>22 Q. And do you recall that she testified, Donna Poplar</p> <p>23 testified, that she believed there was race</p> <p>24 discrimination?</p> <p>25 A. Yes.</p>
<p>Page 52</p> <p>1 really quick break, that would be great.</p> <p>2 MS. GAFKAY: Sure.</p> <p>3 MR. CASCINI: When there's a natural</p> <p>4 break. I don't want to interrupt --</p> <p>5 MS. GAFKAY: Let me just ask one</p> <p>6 follow-up question.</p> <p>7 Q. (BY MS. GAFKAY) We touched on the directives that</p> <p>8 were issued to Ms. Poplar after her complaint of race</p> <p>9 discrimination was investigated.</p> <p>10 Were there ever any type of directives,</p> <p>11 anything issued to you by your supervisor?</p> <p>12 A. Never, ever, in my entire career.</p> <p>13 Q. And your supervisor, just for the record is, who or</p> <p>14 what?</p> <p>15 A. Right now?</p> <p>16 Q. We can start with now.</p> <p>17 A. The Board is my boss.</p> <p>18 Q. How about in August of 2021?</p> <p>19 A. The Board.</p> <p>20 Q. How about since you became managing director, who has</p> <p>21 been your supervisor?</p> <p>22 A. It's been the Board --</p> <p>23 Q. Okay.</p> <p>24 A. -- at all times.</p> <p>25 Q. The way you answered that, I thought maybe it changed.</p>	<p>Page 54</p> <p>1 Q. Other than Anthony Branch and Donna Poplar, since you</p> <p>2 became managing director, have any other African-</p> <p>3 American employees made complaints of race</p> <p>4 discrimination, to your knowledge?</p> <p>5 A. Not to my knowledge.</p> <p>6 Q. And going back, were you present at the deposition of</p> <p>7 Donna Poplar during the Anthony Branch matter?</p> <p>8 A. I believe so, through Zoom meeting, though.</p> <p>9 Q. I understand, you were present by Zoom?</p> <p>10 A. By Zoom.</p> <p>11 Q. All right. Was there anything that Donna Poplar</p> <p>12 testified to during the deposition in the Anthony</p> <p>13 Branch matter that was not truthful, in your opinion?</p> <p>14 A. Yes.</p> <p>15 Q. What did she testify to that was not truthful?</p> <p>16 A. I don't remember.</p> <p>17 Q. Is there anything you remember her testifying to that</p> <p>18 was not truthful?</p> <p>19 A. Well, the truth is that Anthony Branch didn't get</p> <p>20 hired in because of race discrimination.</p> <p>21 Q. Well, were you involved in that hiring decision?</p> <p>22 A. No, I was not.</p> <p>23 Q. So how do you know that race wasn't a factor in that</p> <p>24 decision?</p> <p>25 A. 'Cause I have a lot more qualification than he does.</p>

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1 Q. Does that offend you to suggest that discrimination
2 played a part in the decision to promote you over
3 Anthony Branch?
4 A. Ask me that question again.
5 Q. Sure. Does it offend you --
6 A. To see that he is filing race discrimination against
7 not being selected managing director, yes.
8 Q. At the time of the promotion, were you and Anthony
9 Branch co-managing directors?
10 A. Yes.
11 Q. Okay. You kind of chuckled.
12 A. Well, the answer is yes.
13 Q. Is that --
14 A. I did all the work, that's why.
15 Q. I see, okay. You and Anthony Branch both held the
16 title of co-managing director, but your testimony is
17 you did all the work; right?
18 A. Right.
19 Q. You did all the work that -- all what work?
20 A. Well, in terms of identifying who's going to do what,
21 what he's going to do versus what I'm going to do. In
22 fact, I created and developed two organizational
23 charts, one under his direction and one under me.
24 Q. What is your relationship like with Anthony Branch?
25 A. Good.

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1 Q. Has it always been good?
2 A. Yes, to my knowledge.
3 Q. Any plans to demote or eliminate his position?
4 A. Not -- not as long as he works here, no.
5 Q. As long as who works here?
6 A. Anthony Branch.
7 Q. Oh, as long as he works here, there's no plan to
8 demote or change his position?
9 A. Absolutely not.
10 Q. Is there any plan to reduce the Maintenance Department
11 or restructure?
12 A. We have plans to restructure this organization, yes.
13 Q. Would the restructure affect Anthony Branch's
14 position?
15 A. Yes.
16 Q. Would the restructure affect Donna Poplar's position?
17 A. Yes.
18 Q. Would the restructure affect any other director other
19 than those two?
20 A. Yes.
21 Q. What other director would it affect?
22 A. They will take more responsibilities.
23 Q. Who will take more responsibilities?
24 A. The Finance director and ultimately the director of
25 Engineering.

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1 Q. Will the Finance and the -- well, let me just ask you
2 because the record to me is unclear. Let me ask you
3 this: What is the plan with regard to restructuring
4 Maintenance, the Maintenance Department?
5 A. Well, I'm basically removing the Sign Shop and giving
6 it to Engineering, and that's where they belong.
7 Q. In the 30 years that you've been at the Road
8 Commission, has the Sign Shop ever been under
9 engineering?
10 A. Yes.
11 Q. When?
12 A. When we had Department 40, Traffic Engineering and
13 Special Services.
14 Q. How long ago was that?
15 A. I have the dates in my office. It's been probably 10,
16 15 years ago.
17 Q. All right. So there would be employees -- so would
18 employees in the Sign Shop -- those employees
19 currently report to Anthony Branch; true?
20 A. Correct.
21 Q. Those employees would no longer be reporting to
22 Anthony Branch; is that true?
23 A. Correct.
24 Q. How many employees are we talking about?
25 A. Probably six or seven.

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1 Q. And how would the director of -- or the Human Resource
2 Department, how would that be restructured?
3 A. It will be under Finance Department.
4 Q. Has the Human Resources Department, to your knowledge,
5 always been a separate department on its own with the
6 Genesee County Road Commission?
7 A. As long as I've been here.
8 Q. So for 30 years, to your knowledge, Human Resources
9 has been a separate standalone department; right?
10 A. Correct.
11 Q. And under your plans, you want to put the Human
12 Resource Department under Finance Department?
13 A. Under my plan and also the committee's plan. It
14 wasn't all my decision alone.
15 Q. You're a major player in that decision; true?
16 A. Well, as the managing director, I'm assuming, yes.
17 Q. Well, I don't want you to assume anything. Have you
18 been a major part of the proposal --
19 A. I've been a major part of all the major decision-
20 making at the Road Commission.
21 Q. Okay. So if there's a proposal on the table to move
22 Human Resources under Finance, you have been a major
23 part of that?
24 MR. CASCINI: Objection; asked and
25 answered.

<p style="text-align: right;">Page 59</p> <p>1 THE WITNESS: I answered the question.</p> <p>2 I'm the managing director; I will make the decision</p> <p>3 here at this organization. I mean, these are the</p> <p>4 recommendations that I made to the committee, and they</p> <p>5 accepted it.</p> <p>6 Q. (BY MS. GAFKAY) So your recommendation was to move</p> <p>7 Human Resources to be under the Finance Department?</p> <p>8 A. Correct.</p> <p>9 Q. When did you make that decision?</p> <p>10 A. It's not approved yet. I'm proposing to do this.</p> <p>11 Q. Recommending, proposal, when did you make the</p> <p>12 proposal?</p> <p>13 A. Oh, about three months ago.</p> <p>14 Q. Prior to three months ago, had you ever, in writing,</p> <p>15 made a proposal to move Human Resources under Finance?</p> <p>16 A. No.</p> <p>17 Q. Any other restructuring plans other than those major</p> <p>18 components that you discussed prior?</p> <p>19 A. Yes.</p> <p>20 Q. What other major component does the restructuring plan</p> <p>21 have?</p> <p>22 A. The safety coordinator is being moved from HR to</p> <p>23 Administration; and the receptionist -- one of the</p> <p>24 receptionists is being moved from HR to</p> <p>25 Administration. So you have the Sign Shop being moved</p>	<p style="text-align: right;">Page 61</p> <p>1 Commission, are you involved with the budget?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And what is your fiscal year?</p> <p>4 A. October 1st through September 30th of each year.</p> <p>5 Q. So in the current fiscal year that we're in, 2021 to</p> <p>6 2022, is there an administrative assistant budgeted</p> <p>7 for the Human Resources Department?</p> <p>8 A. I believe so.</p> <p>9 Q. And currently is there a person, an employee, who is</p> <p>10 filling the role of administrative assistant?</p> <p>11 A. Part time, yes.</p> <p>12 Q. Who is that?</p> <p>13 A. Monica Pearson.</p> <p>14 Q. Does she hold any other role with the Road Commission?</p> <p>15 A. Yes.</p> <p>16 Q. What is her other role?</p> <p>17 A. Other role is benefits coordinator.</p> <p>18 Q. Let's talk about the budget a second. You testified</p> <p>19 that there is a budget item for an administrative</p> <p>20 assistant with the Genesee County Road Commission in</p> <p>21 Human Resources; true?</p> <p>22 A. I believe so, yes.</p> <p>23 Q. And that administrative assistant position that is</p> <p>24 budgeted is for a full-time position; true?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 60</p> <p>1 from Maintenance to Engineering, and HR is being moved</p> <p>2 to Finance.</p> <p>3 Q. So two directors that you listed, Human Resources</p> <p>4 director and Maintenance director, under your</p> <p>5 proposal, are losing employees; true?</p> <p>6 A. Yes.</p> <p>7 Q. Other than those two directors -- or departments, are</p> <p>8 there any other departments that you are proposing</p> <p>9 lose employees?</p> <p>10 A. No. They will have more employees.</p> <p>11 Q. Is Donna Poplar and Anthony Branch the only African-</p> <p>12 American directors that you have at the Genesee County</p> <p>13 Road Commission?</p> <p>14 A. At the current time, yes; but we will have another</p> <p>15 African-American female who is going to be promoted to</p> <p>16 be a director of Fleet Maintenance and Facilities as</p> <p>17 part of this reorganizational structure.</p> <p>18 Q. Okay. I was asking you current; but since you brought</p> <p>19 that up, who is that?</p> <p>20 A. Kendra Love.</p> <p>21 Q. Is she a current employee?</p> <p>22 A. Yes.</p> <p>23 Q. What's her current position?</p> <p>24 A. Manager of that department.</p> <p>25 Q. In your position with the Genesee County Road</p>	<p style="text-align: right;">Page 62</p> <p>1 Q. So is it true that currently there is not a full-time</p> <p>2 administrative assistant person in Human Resources; is</p> <p>3 that true?</p> <p>4 A. True.</p> <p>5 Q. All right. And it's also true that that is budgeted</p> <p>6 for but just not being filled; true?</p> <p>7 A. True.</p> <p>8 Q. Okay. And has Donna Poplar, who is the director of</p> <p>9 Human Resources, requested that the full-time</p> <p>10 administrative assistant position be filled?</p> <p>11 A. Not to me.</p> <p>12 Q. To anybody, to your knowledge?</p> <p>13 A. Deputy managing director.</p> <p>14 Q. Who is the current deputy managing director?</p> <p>15 A. Randy Dellaposta.</p> <p>16 Q. Okay. And does Randy Dellaposta report to you?</p> <p>17 A. Yes.</p> <p>18 Q. And is that the proper chain of command; in other</p> <p>19 words, currently, is the director of Human Resources</p> <p>20 supposed to be reporting to the deputy managing</p> <p>21 director, who then reports to you?</p> <p>22 A. Correct.</p> <p>23 Q. So has Randy Dellaposta asked you about filling the</p> <p>24 administrative assistant role in Human Resources with</p> <p>25 a full-time person?</p>

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1 A. No; he indicated that she asked him after her
2 deposition.
3 Q. Okay. He indicated that to you?
4 A. Correct.
5 Q. And what was your response?
6 A. My response is, I'm not going to.
7 Q. And you have knowledge that Ms. Poplar wants the
8 position of administrative assistant filled full time,
9 at least in part, to accommodate her disability; you
10 know that?
11 A. Yes.
12 Q. So you know that a full-time administrative assistant
13 for the Human Resources Department is a requested
14 accommodation for Donna Poplar?
15 A. That's what she wants, yes.
16 Q. And you, as the managing director, you have rejected
17 her request for that accommodation; true?
18 A. True.
19 Q. And have you engaged in any type of discussions with
20 Donna Poplar about how she can otherwise be
21 accommodated, if there is some other accommodation
22 that could be made?
23 MR. CASCINI: Objection as to form.
24 When?
25 THE WITNESS: Yes. When I promoted

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1 Monica Pearson to become the managing coordinator, I
2 met with her --
3 Q. (BY MS. GAFKAY) Met with who?
4 A. With Monica Pearson and also Randy Dellaposta,
5 explained to her, this is what we want to do, that
6 even though you're going to take that position of
7 benefit coordinator, but you also will be responsible
8 to be the assistant to the HR director for her reading
9 and writing. And as a consequence, we revised the job
10 description to include all those extra
11 responsibilities for Monica Pearson, and she accepted
12 that.
13 Q. Let me ask you this: In early 2019, you were managing
14 director?
15 A. Correct.
16 Q. And Donna Poplar reported directly to you at that
17 time?
18 A. Correct.
19 Q. And in or about February of 2019, do you recall that
20 Donna Poplar filed a charge of discrimination with the
21 Equal Employment Opportunity Commission?
22 A. I think so.
23 Q. You kind of chuckled.
24 A. I mean, I don't know dates or anything, but I know she
25 filed two EEOC's and two lawsuits in the past five

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1 years; that, I know.
2 Q. And do you recall that the one in February of 2019,
3 the charge of discrimination to the EEOC, related to
4 the fact that she has a disability and believes she
5 was not being accommodated? Do you recall that?
6 A. I believe so. 2019? Yes.
7 Q. Okay. Well, we can look at it. So let's look at
8 Exhibit 9.
9 A. Yeah, I've seen this.
10 Q. And did you see -- have you ever seen a copy of this?
11 A. Yes.
12 Q. Did you see a copy of it in February of 2019?
13 A. I'm not sure about February 19th, but I've received
14 this document probably a few days after it was filed.
15 Q. Okay. So in February 2019, you believe you would have
16 seen a copy of this?
17 A. Correct.
18 Q. Looking at it, you can see from the document that
19 Donna Poplar, in February of 2019, is alleging race
20 and disability discrimination. Do you see that?
21 A. That first paragraph?
22 Q. You can see it from the boxes she's checked --
23 A. Oh, yes, yes, I do.
24 Q. And so as of February of 2019, you would've known that
25 Donna believed she was being discriminated against

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1 based on race; right? You knew that?
2 A. She alleges that, yes.
3 Q. Okay. And that she alleges disability discrimination?
4 A. Correct.
5 Q. So looking at the actual charge of discrimination, it
6 indicates that the Genesee County Road Commission
7 Board approved in the budget to hire an administrative
8 HR assistant. Do you see that?
9 A. Yes.
10 Q. And I believe you said that the administrative HR
11 assistant is in the budget?
12 MR. CASCINI: Objection; misconstrues
13 prior testimony. You're asking about then; this is
14 back in 2019.
15 Q. (BY MS. GAFKAY) Well, at the time, in 2019, did you
16 have knowledge that it was in the budget as well, an
17 HR assistant?
18 A. I don't remember.
19 Q. Let me ask this. You say that Monica Pearson is --
20 what is her title currently?
21 A. Benefit coordinator.
22 Q. Okay. Is there a line item in the budget for a
23 benefit coordinator?
24 A. Yes.
25 Q. Is she the only benefit coordinator?

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<p>1 A. Yes.</p> <p>2 Q. And is that line item in the budget for a benefit</p> <p>3 coordinator a full-time position?</p> <p>4 A. Yes.</p> <p>5 Q. And that's what she has; correct?</p> <p>6 A. Correct.</p> <p>7 Q. All right. Continuing on in this charge of</p> <p>8 discrimination, she says "my supervisor" -- when she</p> <p>9 says "my supervisor," you realize she's referring to</p> <p>10 you; correct? You know that?</p> <p>11 A. I suppose, yeah.</p> <p>12 Q. It says, "has refused to hire an assistant." Do you</p> <p>13 agree that you had refused to hire an assistant prior</p> <p>14 to February 4, 2019?</p> <p>15 A. I really don't remember.</p> <p>16 Q. Okay. And stated she's -- Donna Poplar is alleging</p> <p>17 that you said, "Why should I hire an assistant for you</p> <p>18 when I can hire someone that does not have a</p> <p>19 disability?" Did you say that?</p> <p>20 A. No.</p> <p>21 Q. Did you say anything like that?</p> <p>22 A. I might have said that why should I hire two people to</p> <p>23 do one job. I may have said that, yes; in fact,</p> <p>24 that's exactly what I said.</p> <p>25 Q. Did you tell Donna Poplar not to attend a meeting with</p>	<p>1 relevance is a proper objection; but I'll continue. I</p> <p>2 understand your objection, and I don't think you're</p> <p>3 barred from bringing this up to the court even whether</p> <p>4 you object or not.</p> <p>5 Q. (BY MS. GAFKAY) At any time since you've been the</p> <p>6 managing director to the present, have you ever told</p> <p>7 Donna Poplar that she was not to attend a meeting with</p> <p>8 other directors?</p> <p>9 A. No.</p> <p>10 Q. Have you held director meetings that you have not</p> <p>11 invited her to also attend?</p> <p>12 A. No.</p> <p>13 Q. Have you held meetings with the other directors and</p> <p>14 she wasn't there?</p> <p>15 A. Correct.</p> <p>16 Q. Okay. Tell me about that.</p> <p>17 A. She was absent for that day that we had the meeting</p> <p>18 set up; it was scheduled.</p> <p>19 Q. When was that?</p> <p>20 A. I don't remember.</p> <p>21 Q. Are you saying it only happened one time?</p> <p>22 A. I don't know.</p> <p>23 Q. Could it have happened more than once?</p> <p>24 A. It wasn't very often, because I send the e-mail out to</p> <p>25 all directors, this is a scheduled meeting, certain</p>
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<p>1 other directors on or about December 6th, 2018?</p> <p>2 A. Absolutely not.</p> <p>3 Q. So you disagree that you told her not to attend a</p> <p>4 meeting with other directors?</p> <p>5 A. Yes.</p> <p>6 Q. Was there a meeting in December of 2018 that she did</p> <p>7 not attend?</p> <p>8 A. I don't remember.</p> <p>9 MR. CASCINI: I'm going to place a</p> <p>10 relevance objection on the record. Julie, the reason</p> <p>11 for my relevance objection as to this charge, anything</p> <p>12 that's brought on behalf of this currently is now</p> <p>13 going to be time-barred, by a significant margin, too.</p> <p>14 MS. GAFKAY: Okay. All right. Well,</p> <p>15 relevancy, obviously, preserves --</p> <p>16 MR. CASCINI: I'm just making it for</p> <p>17 the record.</p> <p>18 MS. GAFKAY: Relevancy objections do</p> <p>19 not need to be made in a deposition. You can bring it</p> <p>20 in some type of motion if you want. We can disagree</p> <p>21 on whether it's relevant or not.</p> <p>22 MR. CASCINI: We can certainly disagree</p> <p>23 on whether it's relevant or not, but I am entitled to</p> <p>24 place objections on the record during a deposition.</p> <p>25 MS. GAFKAY: Okay. I don't think</p>	<p>1 date, certain time.</p> <p>2 Q. So did you ever tell her she wasn't needed to attend a</p> <p>3 directors meeting?</p> <p>4 A. No.</p> <p>5 Q. So is it -- strike that.</p> <p>6 Has there ever been a meeting you've</p> <p>7 held with the directors, other directors, that you</p> <p>8 told Donna Poplar not to come to?</p> <p>9 A. Not that I remember.</p> <p>10 Q. In early -- or January of 2019, did you pull a</p> <p>11 Sonitrol report to see what times Donna Poplar arrived</p> <p>12 at work and when she left?</p> <p>13 A. I might've.</p> <p>14 Q. Did you do that with any other employee at any time,</p> <p>15 to your knowledge?</p> <p>16 A. No; didn't have any reason to do it.</p> <p>17 Q. What reason did you have to pull a Sonitrol report for</p> <p>18 Donna Poplar?</p> <p>19 A. Because I believe she said she came in Saturday and</p> <p>20 wanted to take off a few hours early one day;</p> <p>21 something like that.</p> <p>22 Q. Okay.</p> <p>23 A. And that's when I decided to look at probably the</p> <p>24 Sonitrol video for that Saturday.</p> <p>25 Q. Because she worked on a Saturday?</p>

<p style="text-align: right;">Page 71</p> <p>1 A. I believe so, yeah.</p> <p>2 Q. I mean, do directors get comp time if he or she works</p> <p>3 on a Saturday?</p> <p>4 A. No.</p> <p>5 Q. Is there some type of -- or is the director able to</p> <p>6 make up hours not worked during the week on a Saturday</p> <p>7 or Sunday at times?</p> <p>8 A. No. I expect all of them to be here during business</p> <p>9 hours, every one of them. In fact, I made that clear</p> <p>10 to the deputy managing director just not too long ago.</p> <p>11 Q. Well, do you have a problem with directors working on</p> <p>12 a Saturday or Sunday?</p> <p>13 A. No.</p> <p>14 Q. Okay. So you just wanted to see if Donna was actually</p> <p>15 here when she said she was here?</p> <p>16 A. Correct.</p> <p>17 Q. Just because she said she'd be here on a Saturday and</p> <p>18 no other reason?</p> <p>19 A. Correct, probably.</p> <p>20 Q. Are there other directors or supervisors who have come</p> <p>21 in on a Saturday or a Sunday?</p> <p>22 A. I think so, yeah.</p> <p>23 Q. And told you, hey, I came in on a Saturday or Sunday</p> <p>24 or I'm coming in on a Saturday or Sunday?</p> <p>25 A. No, they didn't tell me, but I know the director of</p>	<p style="text-align: right;">Page 73</p> <p>1 part time administrative something, I don't remember,</p> <p>2 to receive assistance. She started with part time,</p> <p>3 and then this part time evolved into a full-time</p> <p>4 through the Board of Road Commissioners, which I never</p> <p>5 agreed to.</p> <p>6 Q. And that was Monica? Was it Monica?</p> <p>7 A. No -- well, it was Monica, yes, I'm sorry.</p> <p>8 Q. All right. Do you remember that it was only after</p> <p>9 Donna Poplar made a complaint with the Equal</p> <p>10 Employment Opportunity Commission that she was</p> <p>11 provided with a full-time administrative assistant?</p> <p>12 A. Ask that question again.</p> <p>13 Q. Sure. Let me ask you this way just so it's easier for</p> <p>14 you to follow the timeline: You said that at some</p> <p>15 point there was a full-time administrative assistant;</p> <p>16 is that right in the HR?</p> <p>17 A. No.</p> <p>18 Q. There never was?</p> <p>19 A. Never, ever.</p> <p>20 Q. Oh, I thought you said it evolved into full time.</p> <p>21 A. We had a part-time. I think that part time started</p> <p>22 back in 2019 or 2018, shortly after I became managing</p> <p>23 director because of her ADA disability. That's the</p> <p>24 only time we had administrative assistant in the HR</p> <p>25 Department.</p>
<p style="text-align: right;">Page 72</p> <p>1 Engineering came in Saturday a couple times, and I</p> <p>2 came in on Saturday a few times myself.</p> <p>3 Q. And you've already testified you never pulled a</p> <p>4 Sonitrol report on anybody else other than Donna?</p> <p>5 A. Correct.</p> <p>6 Q. Do you recall that Coetta Adams has worked on</p> <p>7 Saturdays and Sundays in the past?</p> <p>8 A. She might've.</p> <p>9 Q. And we've already talked about the fact that you never</p> <p>10 pulled a report on Coetta?</p> <p>11 A. Because I never -- she never told me that she was</p> <p>12 going to take a few hours off during her regular</p> <p>13 hours; in other words, she came in five days, and then</p> <p>14 she came in Saturday to complete her project probably.</p> <p>15 And I'm not aware of those days, either.</p> <p>16 Q. Was there ever a time that you approved comp time?</p> <p>17 A. No.</p> <p>18 Q. For any employee?</p> <p>19 A. No.</p> <p>20 Q. So after -- let me ask you this: Prior to February</p> <p>21 2019, was there an administrative assistant providing</p> <p>22 Donna Poplar with assistance?</p> <p>23 A. Don't remember. I'd have to go back in my record to</p> <p>24 see when we hired the part-time administrator -- admin</p> <p>25 -- part-time help for her, because she started with</p>	<p style="text-align: right;">Page 74</p> <p>1 Q. I thought you said, and maybe you can explain it to</p> <p>2 me, I guess, but you said it evolved into full time.</p> <p>3 A. Correct.</p> <p>4 Q. Do you know when -- so at some point in time, Monica</p> <p>5 moved from Human Resources to -- administrative</p> <p>6 assistant to benefit coordinator, according to your</p> <p>7 testimony. Do you recall when that was?</p> <p>8 A. That was -- I believe it was last year, 2021.</p> <p>9 Q. Okay. Do you recall it being after Donna Poplar was</p> <p>10 suspended?</p> <p>11 A. I think it was after her administrative leave -- or</p> <p>12 during her administrative leave.</p> <p>13 Q. Okay. And after -- and you probably already said, but</p> <p>14 I just want to establish for the record. After Monica</p> <p>15 was moved from administrative assistant under HR to</p> <p>16 benefit coordinator, you have not since replaced</p> <p>17 anybody to be the administrative assistant; true?</p> <p>18 A. Not full time, no.</p> <p>19 Q. And there's nobody designated as administrative</p> <p>20 assistant in Human Resources, is there?</p> <p>21 A. I believe she is.</p> <p>22 Q. You believe --</p> <p>23 A. I believe Monica Pearson is still her administrative</p> <p>24 assistant if she needs writing or reading assistance.</p> <p>25 That's in her job description.</p>

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<p>1 Q. But previously -- strike that.</p> <p>2 Despite your belief that sometimes</p> <p>3 Monica, when she's not doing the benefits, can help</p> <p>4 with the reading for Ms. Poplar, you know that Ms.</p> <p>5 Poplar has indicated to her supervisor, Randy</p> <p>6 Dellaposta, that she still needs accommodations for</p> <p>7 her disability. You know that; true?</p> <p>8 A. Yes.</p> <p>9 Q. Do the other -- does the Human Resources Department</p> <p>10 have an administrative assistant at all now in that</p> <p>11 position title?</p> <p>12 A. Not full time, no.</p> <p>13 Q. Well, anybody desig -- who's --</p> <p>14 A. I would have to look at the job description for Monica</p> <p>15 Pearson. It clearly indicates what their</p> <p>16 responsibilities are.</p> <p>17 Q. Does the Engineering Department have an administrative</p> <p>18 assistant?</p> <p>19 A. Yes.</p> <p>20 Q. Is it full or part time?</p> <p>21 A. Full.</p> <p>22 Q. Does the Maintenance Department have an administrative</p> <p>23 assistant?</p> <p>24 A. Yes.</p> <p>25 Q. Is that full or part time?</p>	<p>1 A. Yes.</p> <p>2 Q. Okay. Which employees have you had a personal</p> <p>3 relationship with?</p> <p>4 MR. CASCINI: Objection as to form,</p> <p>5 vague. Personal relationship?</p> <p>6 Q. (BY MS. GAFKAY) Well, dating or intimate</p> <p>7 relationship.</p> <p>8 A. It was the executive assistant.</p> <p>9 Q. And who was that?</p> <p>10 A. Vicki Bechakes.</p> <p>11 Q. And is Vicki Bechakes still employed with the Genesee</p> <p>12 County Road Commission?</p> <p>13 A. No.</p> <p>14 Q. When did she leave?</p> <p>15 A. September 30th, 2021.</p> <p>16 Q. Are you still in a relationship with Vicki Bechakes?</p> <p>17 A. Yes.</p> <p>18 Q. Do you live with her?</p> <p>19 A. Yes.</p> <p>20 Q. And how long have you lived with her?</p> <p>21 A. Well, I don't officially live with her, but I'm</p> <p>22 spending most of my time over there.</p> <p>23 Q. And when did your relationship begin?</p> <p>24 A. Summer of 2020; yeah, 2020.</p> <p>25 Q. And at the time, you were managing director; correct?</p>
Page 76	Page 78
<p>1 A. Full.</p> <p>2 Q. Does the Finance Department have an administrative</p> <p>3 assistant?</p> <p>4 A. No.</p> <p>5 Q. Does the Administrative Department have an</p> <p>6 administrative assistant?</p> <p>7 A. Yes.</p> <p>8 Q. In the Finance Department, are there clerks or</p> <p>9 assistants of any kind?</p> <p>10 A. No.</p> <p>11 Q. Is there an assistant financial director?</p> <p>12 A. We have a finance manager.</p> <p>13 Q. Below the director?</p> <p>14 A. Correct.</p> <p>15 Q. Okay. Is that finance manager full time?</p> <p>16 A. Correct.</p> <p>17 Q. Is one of the -- earlier you talked about Donna</p> <p>18 testifying to personal issues involving you in the</p> <p>19 Branch lawsuit at her deposition. Did one of those</p> <p>20 involve testimony relating to you having a personal</p> <p>21 relationship with an employee?</p> <p>22 A. Did she -- I don't know. I don't remember if she</p> <p>23 brought that up at the deposition or not.</p> <p>24 Q. Okay. Have you had a personal relationship with any</p> <p>25 employees?</p>	<p>1 A. Correct.</p> <p>2 Q. And she was an executive assistant?</p> <p>3 A. In the Engineering Department.</p> <p>4 Q. And she -- you said you were the boss of the whole --</p> <p>5 A. Correct.</p> <p>6 Q. -- Genesee County Road Commission; right?</p> <p>7 A. Yes.</p> <p>8 Q. So you ultimately would've been her boss; true?</p> <p>9 A. You could say that.</p> <p>10 Q. Is there any policy against dating subordinates at the</p> <p>11 Genesee County Road Commission?</p> <p>12 A. I don't believe so.</p> <p>13 Q. Is that something you disclosed to the Board?</p> <p>14 A. Well, I think it was an opinion rendered by the</p> <p>15 attorney.</p> <p>16 MR. CASCINI: And we're going to ask</p> <p>17 that we don't discuss anything and rendered in an</p> <p>18 attorney's opinion based on legal privilege. So,</p> <p>19 Fred, I'm going to ask you not to address that.</p> <p>20 Q. (BY MS. GAFKAY) I'll just ask the question. I'm not</p> <p>21 asking you for the substance of the opinion, but was</p> <p>22 that opinion made public, in other words, at a Road</p> <p>23 Commission meeting --</p> <p>24 A. No.</p> <p>25 Q. -- Board meeting?</p>

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1	A. No. It was made -- that recommendation was made to	1	of her e-mails.
2	our Board.	2	Q. Which would include e-mails between you and her?
3	Q. Okay. At a public meeting?	3	A. Correct.
4	A. No, I don't believe so.	4	Q. And at the time that you asked Mike Lewis to delete
5	Q. Okay. So in your opinion, in your opinion, I'm not	5	e-mails, you knew that there was potential litigation
6	asking you about any attorney's opinion, did you feel	6	that may occur between Donna Poplar and the Genesee
7	there was anything inappropriate about you dating a	7	County Road Commission; true.
8	subordinate?	8	A. I never thought of it that way.
9	A. She wasn't my direct subordinate.	9	Q. Well, by September of 2021, you knew that Ms. Poplar
10	Q. Okay. Did you believe there was anything	10	had retained legal counsel, didn't you?
11	inappropriate about dating an employee of the Genesee	11	A. Was it September? I guess. I don't know, no. I
12	County Road Commission?	12	don't know the exact date.
13	A. No.	13	Q. Okay. You said Vicki retired September 30th, 2021?
14	Q. And when she was executive assistant, would you and	14	A. Correct.
15	her have communications by e-mail?	15	Q. So I'll show you what we've marked as Exhibit 18. Did
16	A. Very seldom.	16	you receive a copy of what's been marked as Exhibit
17	Q. Did you have communications -- but there were times	17	18, a letter dated September 28, 2021 from Charis Lee
18	when you had communications by e-mail; true?	18	to the Genesee County Road Commission?
19	A. Business-related only, yes.	19	A. Yes. I received this ten days after, though.
20	Q. Right, that's what I'm talking about.	20	Q. On the third page, the third paragraph under Genesee
21	A. Yes.	21	County Road Commission Evidence Preservation
22	Q. What type of business would you have to communicate	22	Obligations, do you see where it begins "This letter"?
23	with her about?	23	Do you see that?
24	A. About the projects, bid tabulations of projects, to-	24	A. I'm sorry.
25	date costs for all the construction projects that was	25	Q. I'm just directing your attention so we can read the
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1	going on at the Road Commission, stuff like that. I	1	same portion --
2	mean, I don't know. You can pull the e-mails. The	2	A. This one?
3	e-mails are available if you want to look at it.	3	Q. Yes. You see where it says, "This letter
4	Q. Did you ever tell anybody to delete e-mails between	4	additionally"?
5	you and Vicki Bechakes?	5	A. Um-hum.
6	A. Only when she reminded me after a few days, after she	6	Q. It says, "This letter additionally notifies the Road
7	retired, she said, I forgot to delete all my e-mails	7	Commission of its duty to preserve evidence in
8	at the Road Commission. So I told her, I'll let Mike	8	anticipation of litigation." Do you see that?
9	Lewis know, take care of it for her; and that's when I	9	A. Yes.
10	asked Mike to delete them.	10	Q. All right. And according to your testimony, it was
11	Q. Did you ever ask anybody to delete e-mails between you	11	sometime after Ms. Bechakes actually retired that she
12	and Vicki Bechakes at the Road Commission?	12	said to you, "Oh, by the way, my e-mails should all be
13	A. No. Like I said --	13	deleted." That was sometime after the retirement;
14	Q. I'm just looking for yes or no at this juncture.	14	correct?
15	A. I asked --	15	A. That's true.
16	MR. CASCINI: Objection; asked and	16	Q. And you can't tell me the date that that occurred?
17	answered.	17	A. No, I don't (sic). Mike Lewis could.
18	THE WITNESS: -- Mike Lewis to delete	18	Q. And you're saying within ten days, within ten days,
19	after she told me, few days after she retired, that	19	you knew about the Lee Legal Group letter?
20	she forgot to delete all of her e-mails, and I told	20	A. Yes.
21	her I will take care of it.	21	Q. And you need to preserve evidence?
22	Q. (BY MS. GAFKAY) According to your testimony, you	22	A. No.
23	asked Mike Lewis to delete e-mails between you and	23	Q. Well, you read the letter, right, when you received
24	Vicki Bechakes; true?	24	it?
25	A. All of her e-mails, not just between me and her; all	25	A. What evidence? I mean --

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<p>1 Q. Okay. Well, you needed to preserve documents.</p> <p>2 A. The evidence is still there. Go look at it. That's</p> <p>3 all I can tell you, go look at it.</p> <p>4 Q. So you told Mike Lewis -- subsequently, you told Mike</p> <p>5 Lewis to delete e-mails?</p> <p>6 A. After she mentioned that she forgot to delete all of</p> <p>7 the e-mails; then I asked Mike to delete all of her</p> <p>8 e-mails, not just e-mails between me and her.</p> <p>9 Q. Okay, I understand. But you received, you know, the</p> <p>10 letter that we've identified as Exhibit 18, and then</p> <p>11 sometime after, you asked Mike Lewis to delete the</p> <p>12 e-mails?</p> <p>13 A. That deletion of e-mails, I'll have to check with</p> <p>14 Mike, but it was before, before I received this.</p> <p>15 Q. Well, you've already testified it was sometime after</p> <p>16 Ms. Bechakes retired that you had the conversation</p> <p>17 with her, and then you went to Mike Lewis; right?</p> <p>18 A. Correct.</p> <p>19 Q. So that would've been --</p> <p>20 A. The day after, two days after, I don't know.</p> <p>21 Q. You don't know?</p> <p>22 A. I don't know.</p> <p>23 Q. Is there anything that would refresh your memory?</p> <p>24 A. No.</p> <p>25 Q. Okay. So what we do know is, it was after the</p>	<p>1 A. Correct.</p> <p>2 Q. And have you been able to retrieve those since you</p> <p>3 asked for them to be removed?</p> <p>4 A. The e-mails from Ms. Bechakes?</p> <p>5 Q. Yes.</p> <p>6 A. No.</p> <p>7 Q. And to your knowledge, did Mr. Lewis follow your</p> <p>8 directive to delete those e-mails?</p> <p>9 A. Yes.</p> <p>10 Q. All right. Did you ask for a list of employees with</p> <p>11 the employees' corresponding race to be listed?</p> <p>12 A. I was offered that, yes. I was offered that list with</p> <p>13 the race information on it.</p> <p>14 Q. Who offered it to you?</p> <p>15 A. Donna Poplar.</p> <p>16 Q. What did she say?</p> <p>17 A. "Do you want the race to be on there, too?" I said,</p> <p>18 "Sure, that's just information for me to know."</p> <p>19 Q. And do you recall when that was?</p> <p>20 A. No, I don't.</p> <p>21 Q. What did you do with the list?</p> <p>22 A. I just kept it. I looked at the titles, I looked at</p> <p>23 the date of hire, and that's pretty much what I did to</p> <p>24 it.</p> <p>25 Q. Okay. I guess --</p>
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<p>1 retirement, and some time after the retirement that</p> <p>2 she told you that?</p> <p>3 A. Exactly.</p> <p>4 Q. All right. And are you saying that the e-mails</p> <p>5 between you and Ms. Bechakes still exist or were they</p> <p>6 eliminated?</p> <p>7 A. It can be retrieved, I assume.</p> <p>8 Q. Well, is your assumption -- what we know is that you</p> <p>9 requested that e-mails be removed from the system;</p> <p>10 true?</p> <p>11 A. True.</p> <p>12 Q. You don't know whether those are retrievable or not,</p> <p>13 do you?</p> <p>14 A. They are retrievable.</p> <p>15 Q. How do you know?</p> <p>16 A. Because they just retrieved some of my e-mails that</p> <p>17 went back and forth between me and my chairperson as</p> <p>18 part of FOIA.</p> <p>19 Q. Did you ask Mike Lewis to delete e-mails between you</p> <p>20 and Mr. Elkins?</p> <p>21 A. Absolutely not.</p> <p>22 Q. Okay. But the e-mails you did request be deleted were</p> <p>23 e-mails between you and Ms. Bechakes or all e-mails</p> <p>24 relating to Ms. Bechakes, which would include e-mails</p> <p>25 between you and Ms. Bechakes; right?</p>	<p>1 A. It was --</p> <p>2 Q. -- the better question would be to tell me what you</p> <p>3 recall was on the list. What do you recall was on the</p> <p>4 list?</p> <p>5 A. Yeah. It was title, name, date of hire, and then they</p> <p>6 provided me with the race column.</p> <p>7 Q. Race column?</p> <p>8 A. Race column.</p> <p>9 Q. Okay.</p> <p>10 A. And then after that, I was accused of racial profiling.</p> <p>11 Q. By who?</p> <p>12 A. The African-American community in this entire Genesee</p> <p>13 County.</p> <p>14 Q. Did you get some form of -- I mean, how do you know</p> <p>15 that?</p> <p>16 A. By having people coming to the Road Commission,</p> <p>17 including county commissioners of the county, accusing</p> <p>18 me of racial profiling, yes. Made-up story, that's</p> <p>19 what it is.</p> <p>20 Q. What's the made-up story?</p> <p>21 A. Racial -- that I racially profile people.</p> <p>22 Q. Where did you put the list?</p> <p>23 A. I probably have it in my file someplace. It's in my</p> <p>24 -- I've got several folders; I just have to look for</p> <p>25 it.</p>

<p style="text-align: right;">Page 87</p> <p>1 Q. Did you ever post it?</p> <p>2 A. No.</p> <p>3 Q. So you believe you still have it?</p> <p>4 A. I believe so; I'll have to look for it for you.</p> <p>5 Q. Okay. And is that something you provided to your</p> <p>6 attorney?</p> <p>7 A. I don't know. No.</p> <p>8 Q. So you should provide a copy to your attorney so he</p> <p>9 can turn it over.</p> <p>10 MR. CASCINI: I agree, for what it's</p> <p>11 worth, Fred.</p> <p>12 MS. GAFKAY: I didn't see that it had</p> <p>13 been produced; but certainly, please produce it.</p> <p>14 Q. (BY MS. GAFKAY) Were there times that you would --</p> <p>15 you have referenced the list?</p> <p>16 A. For what reason?</p> <p>17 Q. Well, I'm asking you.</p> <p>18 A. No.</p> <p>19 Q. So why did you want the list?</p> <p>20 A. Because I wanted to know how many equipment operators</p> <p>21 we'll have, how many engineer aides we'll have, how</p> <p>22 many finance people we have. I just wanted to know</p> <p>23 the titles of all the people that we have at the Road</p> <p>24 Commission and the date of hire.</p> <p>25 Q. And have you referenced that list when you made</p>	<p style="text-align: right;">Page 89</p> <p>1 Michigan on a yearly basis to let them know what the</p> <p>2 percentage of minority employees we have at this</p> <p>3 organization.</p> <p>4 Q. Who did you give it to?</p> <p>5 A. The HR reports to the state.</p> <p>6 Q. No. I mean, you personally, you got the list, it has</p> <p>7 the corresponding race. You put it in a file, you</p> <p>8 believe you still have a copy?</p> <p>9 A. I believe so, yeah.</p> <p>10 Q. I'm talking about the copy, and it's in your office?</p> <p>11 A. Yeah. I also have a copy from 2010 where they</p> <p>12 described me as a Pacific Islander. That's what I</p> <p>13 wanted to see. That's very insensitive, because I'm a</p> <p>14 minority myself, just for your information, okay. I</p> <p>15 came in as an immigrant, and look where I'm at now,</p> <p>16 okay. So you can't tell me I'm discriminating against</p> <p>17 minorities, because I've been discriminated against</p> <p>18 many times -- numerous times in this country.</p> <p>19 Q. At the Road Commission?</p> <p>20 A. Not at the Road Commission -- even at the Road</p> <p>21 Commission, yes.</p> <p>22 Q. By who?</p> <p>23 A. By John Daly, my previous supervisor.</p> <p>24 Q. How did he discriminate against you?</p> <p>25 A. How? Because I was county highway engineer for 15</p>
<p style="text-align: right;">Page 88</p> <p>1 different employment decisions?</p> <p>2 A. No.</p> <p>3 Q. Your testimony is that putting the race was offered to</p> <p>4 you by Donna Poplar; is that your testimony?</p> <p>5 A. Yes, it is.</p> <p>6 Q. Okay. And I think we've established that you're the</p> <p>7 boss of Donna Poplar; right?</p> <p>8 A. Correct.</p> <p>9 Q. You certainly could have told her, no; right?</p> <p>10 A. I could've, yeah.</p> <p>11 Q. But instead, you're saying that she offered it, and</p> <p>12 you said, yes, go ahead and put the race; right?</p> <p>13 A. Yeah.</p> <p>14 Q. If you thought there was anything wrong with putting</p> <p>15 the corresponding race with the name of the employee,</p> <p>16 you could have told her; right?</p> <p>17 A. If I knew, yeah, I would've told her not to put race</p> <p>18 on there.</p> <p>19 Q. You didn't tell her not to put race, did you?</p> <p>20 A. No, 'cause I was new on the job, like, first month as</p> <p>21 managing director.</p> <p>22 Q. Did you think there was anything wrong with --</p> <p>23 A. No, I didn't.</p> <p>24 Q. -- putting corresponding race?</p> <p>25 A. No, because that's the report we gave to the State of</p>	<p style="text-align: right;">Page 90</p> <p>1 years. This organization used to get \$10,000 money</p> <p>2 from the state to have a licensed county engineer on</p> <p>3 board. I never seen any of it. I've requested</p> <p>4 numerous times to see it. They never gave it to me.</p> <p>5 You tell me, that's not discrimination?</p> <p>6 That's a funded position that I didn't get any of that</p> <p>7 money; but yet I was the county engineer responsible</p> <p>8 for all construction activities in this Genesee</p> <p>9 County.</p> <p>10 Q. Was there a county engineer that was not a minority</p> <p>11 that was getting paid something you weren't getting</p> <p>12 paid?</p> <p>13 A. At this organization?</p> <p>14 Q. Yes.</p> <p>15 A. I don't remember. No, there was no minority here at</p> <p>16 this organization that was county engineer besides me.</p> <p>17 Q. You were the only one?</p> <p>18 A. I was the only one.</p> <p>19 Q. Okay. Going back to the list, there's a list in your</p> <p>20 office. You say you believe it's still there. It's</p> <p>21 in a file. It's got names of employees, corresponding</p> <p>22 races.</p> <p>23 Here's my question. That list, have</p> <p>24 you ever used that specific list -- ever submitted</p> <p>25 that specific list that's in your office to the State</p>

<p style="text-align: right;">Page 91</p> <p>1 of Michigan?</p> <p>2 A. You have to ask HR.</p> <p>3 Q. No, I'm asking you.</p> <p>4 A. I did not personally, no.</p> <p>5 Q. And do you have any knowledge that your specific list</p> <p>6 that's in your office in a folder --</p> <p>7 A. I have no knowledge of it.</p> <p>8 Q. No knowledge if that has ever been submitted to the</p> <p>9 State of Michigan, do you?</p> <p>10 A. No knowledge of that.</p> <p>11 Q. Okay, fair enough.</p> <p>12 A. But I will give you the list that they described me as</p> <p>13 Pacific Islander on there, and that's the list they</p> <p>14 submitted to the State of Michigan. In fact, this</p> <p>15 list needs to come before the Board.</p> <p>16 Q. I want to know about the list in your office, not some</p> <p>17 list that was previously identified -- misidentified</p> <p>18 you; that's not what I'm talking about. But I</p> <p>19 appreciate that, that you told me about that.</p> <p>20 So let me ask you this: In your</p> <p>21 position as managing director, you assumed that</p> <p>22 position in August of 2018?</p> <p>23 A. Correct.</p> <p>24 Q. March of 2020 comes. What responsibilities, if any,</p> <p>25 do you have to the organization regarding Covid-19</p>	<p style="text-align: right;">Page 93</p> <p>1 through the CDC. Do you acknowledge that?</p> <p>2 A. Yes.</p> <p>3 Q. And then at some point, the directives came from the</p> <p>4 department, for Michigan, came from the Department of</p> <p>5 Health and Human Services or MIOSHA; do you recall</p> <p>6 that?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. And the county, Genesee County, there were</p> <p>9 times that the county would issue orders regarding</p> <p>10 Covid-19 safety protocols; is that true?</p> <p>11 A. True.</p> <p>12 Q. All right. So, I mean, in your position, you're aware</p> <p>13 these are all different levels of government,</p> <p>14 different entities that are issuing different types of</p> <p>15 mandates to keep people safe relating to Covid-19;</p> <p>16 true?</p> <p>17 A. True.</p> <p>18 Q. Was the safety of your employees and visitors relating</p> <p>19 to Covid-19 important to you?</p> <p>20 A. Of course.</p> <p>21 Q. Were you concerned in August of 2021 when the</p> <p>22 transmission rate in Genesee County became -- there</p> <p>23 was a substantial transmission rate that was found to</p> <p>24 be in Genesee County?</p> <p>25 A. I don't remember.</p>
<p style="text-align: right;">Page 92</p> <p>1 protocols?</p> <p>2 A. What responsibilities do I have?</p> <p>3 Q. (Nodding head affirmatively).</p> <p>4 A. I guess I have to make the final decision of how we're</p> <p>5 going to handle the face masks and some of the things</p> <p>6 that we follow based on MIOSHA or Genesee County</p> <p>7 Health Department.</p> <p>8 Q. Okay. Now, with regard to -- I mean, obviously there</p> <p>9 was a lot of moving parts after March -- or in March</p> <p>10 of 2020 as to, you know, how to handle employee issues</p> <p>11 concerning Covid-19. Do you agree?</p> <p>12 A. Um-hum.</p> <p>13 Q. "Yes?"</p> <p>14 A. Yes.</p> <p>15 Q. Was a lot of those responsibilities, how to handle</p> <p>16 those employment issues relating to Covid-19, did that</p> <p>17 fall on Donna Poplar because she was the director of</p> <p>18 Human Resources?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. Obviously, initially, the governor was issuing</p> <p>21 some executive orders. Do you recall that?</p> <p>22 A. Yes.</p> <p>23 Q. For the State of Michigan?</p> <p>24 A. Yes.</p> <p>25 Q. And the federal government was issuing guidelines</p>	<p style="text-align: right;">Page 94</p> <p>1 Q. Okay. Now, in August of 2021, there was some back and</p> <p>2 forth e-mails between you and Donna about masks,</p> <p>3 whether visitors and employees should wear masks;</p> <p>4 right?</p> <p>5 A. I believe so, yeah.</p> <p>6 Q. And what is your understanding as to the reason for</p> <p>7 the mask wearing?</p> <p>8 A. Safety of employees and the public.</p> <p>9 Q. And do you believe it's important for employees and</p> <p>10 the public to be safe?</p> <p>11 A. Absolutely.</p> <p>12 Q. Let's go to what's been marked as Exhibit 14. Let's</p> <p>13 start at the back, the e-mail chain goes up from the</p> <p>14 back. It looks like on August 13th, there was an</p> <p>15 e-mail from a Lori Friedlis. Is that something you</p> <p>16 received?</p> <p>17 A. I believe so, yes.</p> <p>18 Q. Okay. It looks like she's talking about -- it looks</p> <p>19 like she's from, you know, the Road Commission</p> <p>20 insurance pool; is that right?</p> <p>21 A. Correct.</p> <p>22 Q. And she's sending out maybe an e-mail to all the road</p> <p>23 commissions in the pool just giving an update on the</p> <p>24 MIOSHA statement encouraging following CDC guidelines.</p> <p>25 Do you see that?</p>

<p style="text-align: right;">Page 95</p> <p>1 A. Um-hum.</p> <p>2 Q. Is that a "yes"?</p> <p>3 A. Yes. I'm sorry.</p> <p>4 Q. And you understand the CDC is with the federal</p> <p>5 government?</p> <p>6 A. Correct.</p> <p>7 Q. And MIOSHA is with the state government?</p> <p>8 A. Correct.</p> <p>9 Q. And I don't think that in her e-mail she addresses any</p> <p>10 mandate or guideline from the county?</p> <p>11 A. Correct.</p> <p>12 Q. So then, do you, then, forward that e-mail to Donna</p> <p>13 Poplar and Monica Pearson?</p> <p>14 A. Um-hum.</p> <p>15 Q. Is that a "yes"?</p> <p>16 A. Yes.</p> <p>17 Q. What was the reason you did that, was the reason you</p> <p>18 forwarded it to Donna?</p> <p>19 A. So this is the updated information that I received</p> <p>20 from MCRCSIP.</p> <p>21 Q. And then did she respond to your e-mail?</p> <p>22 A. According to this, yes, she did.</p> <p>23 Q. Okay. And it looks like in her e-mail to you, she's</p> <p>24 telling you that Genesee County is unfortunately</p> <p>25 ranked as a substantial transmission risk county. Do</p>	<p style="text-align: right;">Page 97</p> <p>1 that recommendation?</p> <p>2 A. According to this, she did.</p> <p>3 Q. And did you disagree with it?</p> <p>4 A. Yes.</p> <p>5 Q. All right. So it looks like you then reply -- let's</p> <p>6 look at your reply. Is your reply at the top from</p> <p>7 Fred Peivandi, sent Monday, August 16, 2021, 3:42 p.m.,</p> <p>8 to Donna Poplar?</p> <p>9 A. Yes.</p> <p>10 Q. Did you send this e-mail to Donna?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. So in your e-mail, you say, "... I do not wish</p> <p>13 to mandate that GCRC staff and visitors wear</p> <p>14 masks..."; right?</p> <p>15 A. Right.</p> <p>16 Q. "... but I do want staff to be aware of the risk level</p> <p>17 in Genesee County ..." Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. So based on your e-mail, you want employees to</p> <p>20 know of the risk level; right?</p> <p>21 A. Yes.</p> <p>22 Q. Then you say, "If at a later time MIOSHA issues a</p> <p>23 mandate, GCRC will need to comply with the guidance of</p> <p>24 requiring all staff and visitors to wear masks." You</p> <p>25 wrote that?</p>
<p style="text-align: right;">Page 96</p> <p>1 you see that?</p> <p>2 A. Yes.</p> <p>3 Q. Any reason to dispute that what she was telling you</p> <p>4 was true; in other words, are you aware that in August</p> <p>5 of 2021, the transmission risk was substantial for</p> <p>6 Genesee County?</p> <p>7 A. Don't know.</p> <p>8 Q. Any reason to dispute that?</p> <p>9 A. I have no reason to dispute it, no.</p> <p>10 Q. Okay. And Donna makes a recommendation that Genesee</p> <p>11 County Road Commission implement a course of action to</p> <p>12 follow the CDC mask wearing. Do you see that?</p> <p>13 A. Um-hum.</p> <p>14 Q. Is that a "yes"?</p> <p>15 A. Yes. I'm sorry.</p> <p>16 Q. By making it mandatory that Genesee County Road</p> <p>17 Commission vaccinated and unvaccinated employees and</p> <p>18 visitors wear face masks that meets CDC standards. Do</p> <p>19 you see that?</p> <p>20 A. Yes.</p> <p>21 Q. So did you take from what she was recommending that</p> <p>22 she thought that visitors and employees should be</p> <p>23 wearing masks?</p> <p>24 A. But I disagreed.</p> <p>25 Q. I know. I'm just trying to establish, did she make</p>	<p style="text-align: right;">Page 98</p> <p>1 A. Yes.</p> <p>2 Q. So in other words, if MIOSHA requires it, through some</p> <p>3 type of mandate, then you'll require your staff and</p> <p>4 employees?</p> <p>5 A. Absolutely.</p> <p>6 Q. You go on and say, "It is a good time to remind staff</p> <p>7 about social distancing, hand washing, and the</p> <p>8 availability of masks and hand sanitizer." So you</p> <p>9 want employees to be reminded of those things; correct?</p> <p>10 A. Correct.</p> <p>11 Q. And then there's a response, a reply to your e-mail</p> <p>12 from Donna on August 16th, 2021 at 5:26 p.m., isn't</p> <p>13 there? Did you get an e-mail from her in reply?</p> <p>14 A. I suppose so, yeah. It is from her to me, so</p> <p>15 obviously I got it.</p> <p>16 Q. Well, the first page of Deposition Exhibit 14 is an</p> <p>17 e-mail from her to you dated August 16th, 2021 at 5:26</p> <p>18 p.m. Did you get it, did you get this e-mail?</p> <p>19 A. I believe so. I mean . . .</p> <p>20 Q. Okay. And she reiterates that it's serious that the</p> <p>21 Covid-19 has an increasing rate, and it is at a</p> <p>22 substantial transmission risk level. And I'm</p> <p>23 paraphrasing, we can read it verbatim, but we do have</p> <p>24 the exhibit as part of the record. Do you agree that</p> <p>25 I paraphrased that correctly?</p>

<p style="text-align: right;">Page 99</p> <p>1 A. Um-hum, yes.</p> <p>2 Q. All right. And in the second paragraph, Donna is</p> <p>3 telling you about learning that the Genesee County</p> <p>4 Board of Commissioners is requiring all county</p> <p>5 vaccinated and nonvaccinated employees and visitors to</p> <p>6 wear a face mask. She tells you that in the second</p> <p>7 paragraph; right?</p> <p>8 A. That's a false statement.</p> <p>9 Q. Well, let's read it. What I said she's saying or what</p> <p>10 it says?</p> <p>11 A. No. That she says all employees in the county are</p> <p>12 wearing masks. That's a false statement.</p> <p>13 Q. All right. We need clarity on the record, so let me</p> <p>14 ask you this: In her e-mail, does Donna tell you,</p> <p>15 "... the Genesee County Board of Commissioners on last</p> <p>16 week requires all county vaccinated and non-vaccinated</p> <p>17 employees and visitors to wear face mask..." Does she</p> <p>18 tell you that in the e-mail? Does it say that?</p> <p>19 A. Yes, it does. But that's false, that's what I'm</p> <p>20 saying.</p> <p>21 Q. At the end of her e-mail, she tells you, "... I will</p> <p>22 have Monica to send a memo out to all GCRC employees</p> <p>23 relative to your decision." Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. Did you ever reply to this e-mail that Donna</p>	<p style="text-align: right;">Page 101</p> <p>1 A. Yes.</p> <p>2 Q. "based on the number of cases per one million and case</p> <p>3 positive rate using the Michigan Start Map Risk</p> <p>4 Calculator, meets the level of 'Substantial</p> <p>5 Transmission' or 'High Transmission' per CDC</p> <p>6 guidelines, then the use of face masks for everyone</p> <p>7 five years of age and older within indoor public</p> <p>8 spaces is reasonable and necessary to reduce the risk</p> <p>9 for Covid-19 transmission." Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. Based on the e-mails we just read, Donna Poplar is</p> <p>12 telling you that Genesee County is at substantial</p> <p>13 transmission; right?</p> <p>14 A. Yes.</p> <p>15 Q. And then the next paragraph says, "This directive</p> <p>16 applies to indoor spaces that are open to the public,</p> <p>17 including retail, grocery stores, government</p> <p>18 buildings, and other businesses and places where</p> <p>19 members of the public can enter freely." Do you see</p> <p>20 that?</p> <p>21 A. Yes.</p> <p>22 Q. So Genesee County Road Commission certainly would be</p> <p>23 covered as a government building; right?</p> <p>24 A. Yes.</p> <p>25 Q. Okay.</p>
<p style="text-align: right;">Page 100</p> <p>1 sent to you on August 16th at 5:26 p.m. to tell Donna,</p> <p>2 don't send any memo out to all employees?</p> <p>3 A. I don't believe I responded to this at all.</p> <p>4 Q. Okay. If you want to look at what's been marked as</p> <p>5 Exhibit 13. Have you ever seen this, 13? Have you</p> <p>6 ever seen this directive issued by the Genesee County</p> <p>7 Health Department on August --</p> <p>8 A. Probably.</p> <p>9 Q. -- 4, 2021?</p> <p>10 A. Probably.</p> <p>11 Q. Is this something you received as a course of -- in</p> <p>12 your employment as the managing director, you would</p> <p>13 receive the directives from the county on a regular</p> <p>14 basis relating to Covid-19?</p> <p>15 A. I didn't.</p> <p>16 Q. Who did?</p> <p>17 A. HR.</p> <p>18 Q. Okay. But you said I probably saw it. Why do you say</p> <p>19 you probably saw this? Why do you say you probably</p> <p>20 saw it? Because you remember it?</p> <p>21 A. Because, I mean, whenever these are received, they</p> <p>22 shared with me.</p> <p>23 Q. Let's go to the second page. The middle of the</p> <p>24 document, it says, "When the transmission in Genesee</p> <p>25 County of Covid-19" -- do you see where I'm reading?</p>	<p style="text-align: right;">Page 102</p> <p>1 A. What's the date on this?</p> <p>2 Q. August 4th, 2021. So according to Genesee County, if</p> <p>3 this rate was substantial transmission, then the</p> <p>4 employees and visitors at Genesee County Road</p> <p>5 Commission should've been wearing masks?</p> <p>6 MR. CASCINI: Objection; assumes facts</p> <p>7 not in evidence. That's not what the document states.</p> <p>8 Q. (BY MS. GAFKAY) According to what we just read, how</p> <p>9 about that --</p> <p>10 A. I have some other documents in my e-mails --</p> <p>11 Q. Let me ask you this question: In August of 2021, were</p> <p>12 you aware that Genesee County had issued a mask</p> <p>13 mandate?</p> <p>14 A. I mean, I can't say yes or no. I mean, probably by</p> <p>15 seeing this, yes.</p> <p>16 Q. Okay. And Donna Poplar was telling you on August 16th</p> <p>17 the rate is at substantial transmission --</p> <p>18 A. Okay.</p> <p>19 Q. -- and she's telling you that all county employees and</p> <p>20 visitors must wear face masks?</p> <p>21 A. That's not true, it was not true.</p> <p>22 MR. CASCINI: I renew my objection.</p> <p>23 THE WITNESS: It's not true.</p> <p>24 Q. (BY MS. GAFKAY) Okay. Why are you saying it's not</p> <p>25 true?</p>

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1 A. Because I contacted the county, the Board
2 Administrator, Josh Freeman, via e-mail, and I also
3 contacted my friend, Derek Bradshaw, director of
4 Planning Commission at the county, and they both
5 indicated that this only applies to healthcare workers
6 and some other -- schools maybe; but they are not
7 required to wear face masks when they go to work.
8 Q. Well, as Donna said she would do on August 16th, 2021
9 e-mail to you, a memo to employees relative to your
10 decision about the face masks was issued; right?
11 We're going to look at it. Here's my
12 question, I'm not asking you to look at the document,
13 on August 16th, 2021, the e-mail you never respond to,
14 Donna says, "I'm going to have a memo issued to all
15 employees regarding your decision." That's how she
16 ends her e-mail; right?
17 A. I guess, yes.
18 Q. Well, we just looked at it.
19 A. Yes. Why are you asking me again?
20 Q. Well, you don't respond to it.
21 A. No, I don't respond, correct.
22 Q. And she does issue a memo; right?
23 A. Right.
24 Q. And she --
25 A. Without my authorization, without my authorization.

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1 Q. Let's talk about that.
2 A. Okay, let's talk about it.
3 Q. But my question just on the table is, she tells you
4 she's going to issue a memo based on your directive,
5 and there is a memo that is issued the next day;
6 right? We can go to it, Exhibit 15. The next day --
7 A. Um-hum.
8 Q. -- on August 17th, there is a memo issued by Donna,
9 just as she tells you she's going to do based on your
10 directive; right?
11 A. Which directive?
12 Q. Donna tells you in her e-mail and conclusion to her
13 e-mail that she's going to issue a memo based on your
14 directive; she writes that memo?
15 A. I did not -- based on my directive?
16 Q. Well, let's look at it again, because I want the
17 record to be clear. Donna tells you, "I will have
18 Monica to send a memo out to all GCRC employees
19 relative to your decision." That's what she concludes
20 within her e-mail on August 16th.
21 A. Okay.
22 Q. All right?
23 A. Um-hum.
24 Q. You don't respond to that?
25 A. Correct.

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1 Q. The next day, she does as she tells you she was going
2 to do, she has a memo regarding your directives issued
3 to all employees; right?
4 A. Correct.
5 Q. All right. And she tells the employees the risk level
6 is substantial transmission; right?
7 A. Yes.
8 Q. You wanted employees to know that the risk level was
9 substantial; right?
10 A. Yes.
11 Q. All right. She tells employees that they're not
12 required to wear a face mask at this time?
13 A. By throwing me under the bus.
14 Q. I just want to talk about the e-mail. But in the
15 e-mail, she tells employees they're not required to
16 wear masks at that time.
17 MR. CASCINI: You just said e-mail, not
18 memo.
19 MS. GAFKAY: I'll read the e-mail
20 exactly as you said.
21 MR. CASCINI: I think that's the
22 confusion source.
23 MS. GAFKAY: Oh, that's true. It is a
24 memo. It might've been issued by an e-mail.
25 MR. CASCINI: Well, it --

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1 MS. GAFKAY: No, I don't know if it
2 was. It's a memo. I don't know how it was issued to
3 employees, but it's to all employees.
4 MR. CASCINI: We're just talking about
5 Exhibit 15?
6 MS. GAFKAY: Oh yeah, right.
7 MR. CASCINI: Okay.
8 Q. (BY MS. GAFKAY) In the memo, which is Exhibit 15, it
9 says, "The GCRC managing director, Fred Peivandi, has
10 decided not to require employees or visitors to wear a
11 face mask at this time." She tells employees that;
12 right?
13 A. It wasn't necessary to mention my name.
14 Q. Okay. Well, is it true or false that employees or
15 visitors were not required to wear a face mask at that
16 time?
17 A. At that time, correct.
18 Q. Was that true?
19 A. That they did not require? Correct.
20 Q. Right.
21 A. Yes.
22 Q. Was that your decision?
23 A. Yes.
24 Q. Did you tell Donna that was your decision?
25 A. Based on this e-mail, that's in there, yeah.

<p style="text-align: right;">Page 107</p> <p>1 Q. And Donna recommended that employees and visitors wear 2 face masks prior to August 17; right? She made that 3 recommendation; right? 4 A. Okay, yeah. 5 Q. Did she? Did she make that recommendation to you? 6 A. To visitors and employees wear face masks? 7 Q. No. Did Donna Poplar make a recommendation to you 8 prior to August 17, 2021, hey -- 9 A. Yes, she did. 10 Q. -- the risk is high, let's have the employees and 11 visitors wear masks? 12 A. She did. 13 Q. All right. And you rejected that? 14 A. Correct. 15 Q. And she told employees that they could still not wear 16 masks; right? 17 A. It wasn't necessary to mention my name on this, though. 18 Q. Well, it's true that you -- 19 A. That's like throwing me under the bus. 20 Q. But it's true you made that decision, didn't you? 21 A. But she didn't have to mention my name on this thing, 22 and I was not the author of this memo; I was not the 23 author of this memo going out. 24 Q. Was it true or false that the managing director's 25 position is to wait for the State of Michigan to</p>	<p style="text-align: right;">Page 109</p> <p>1 guidance of requiring all staff and visitors to wear 2 masks." And in her memo to employees she says your 3 position is to wait for the State of Michigan to 4 impose a mandate. Isn't that what you told her? 5 MR. CASCINI: Objection -- 6 THE WITNESS: No. 7 MR. CASCINI: -- asked and answered. 8 Q. (BY MS. GAFKAY) So tell me why what she put in the 9 memo is different than what you put in your e-mail? 10 A. Because I did not get a chance to read the text of 11 this memo, and I didn't like what she said in this 12 paragraph. 13 Q. You didn't like how she said it? 14 A. That's correct. 15 Q. But what she said was true; right? 16 A. No, it's not true. 17 Q. Tell me what's not true about that -- 18 A. Because I checked with the county, and the county 19 employees are not required to wear masks. 20 Q. Where does she say in the memo that county employees 21 are required to wear masks? 22 A. Well, you tell me, is it necessary, my name is 23 necessary to be on here? Doesn't it sound like 24 throwing me under the bus? I have a subordinate here 25 that time and time again is trying to throw me under</p>
<p style="text-align: right;">Page 108</p> <p>1 impose a mandate for employees and visitors to wear a 2 face mask? Was that true? 3 A. No, it's not true. 4 Q. All right. In your e-mail to her the prior day, you 5 said, "If at later time MIOSHA issues a mandate, GCRC 6 will need to comply with the guidance of requiring all 7 staff and visitors to wear masks." You said that? 8 A. Correct. 9 Q. Were there prior memos issued to staff during Covid-19 10 relating to safety protocols? 11 A. Yes, yes. 12 Q. Probably many; is that right? 13 A. Probably, yeah. 14 Q. And do you recall that Donna would list you and her on 15 the memo to employees relating to Covid-19 protocols? 16 A. Well, she would always send me a draft copy of the 17 memo for my review and approval before the memo went 18 out. 19 Q. You're saying -- 20 A. This one did not. 21 Q. You're saying every time? 22 A. Every time, yes. 23 Q. But going back to my -- what I was asking you was, you 24 say in your e-mail to her, "If a later time MIOSHA 25 issues a mandate, GCRC will need to comply with the</p>	<p style="text-align: right;">Page 110</p> <p>1 the bus, whether it's at the Board meeting or having 2 the whole community of Genesee County to come into the 3 Board and criticize me about racism and all of that, 4 and now I get this. It's embarrassing. When I see 5 this, it says Genesee County managing director Fred 6 Peivandi has decided. What do you mean by that? Why 7 do you say that? This paragraph could be completely 8 eliminated. If you want to require not -- for the 9 employees not to wear masks, this paragraph is not 10 necessary to be there. But this never came to me for 11 review and approval. 12 Q. But there were discussions before the memo was 13 issued -- 14 A. But it never came to me for a final approval. 15 Q. Okay. I wasn't done yet. But there were 16 communications between you and Donna about what she 17 wanted communicated to the staff, wasn't there? 18 A. She never said that. She doesn't have to put my name 19 on there. I'm telling the staff not to wear masks. 20 If she would've said this in that previous e-mail, I 21 would've -- I would've responded to that e-mail, if I 22 knew that this memo was going to be like this, that 23 she's going to tell me -- tell all the employees that 24 I decided to require employees and visitors not to 25 wear masks.</p>

<p style="text-align: right;">Page 111</p> <p>1 Q. And were prior memos provided to you, a copy provided 2 to you before they were issued to the employees? 3 MR. CASCINI: Objection; asked and 4 answered. 5 THE WITNESS: Say that question again. 6 Q. (BY MS. GAFKAY) Were all prior Covid-19 protocol 7 memos from Donna that had you and Donna's name on it 8 always provided to you first before being issued to 9 the employees? 10 MR. CASCINI: Same objection. 11 THE WITNESS: Yes. 12 Q. (BY MS. GAFKAY) What evidence do you have of that? 13 Let me ask you this: How would she -- would she 14 e-mail it to you? 15 A. Yes. 16 Q. All right. So for every Covid-19 memo that was issued 17 prior to August 17th, there will be a corresponding 18 e-mail with a draft? 19 A. I believe so, yes. 20 Q. Would you agree that the issue surrounding Covid-19 21 and safety protocols was an important matter? 22 A. Of course. 23 Q. It was a matter of public concern? 24 A. Absolutely. 25 Q. And the next paragraph, "All GCRC employees should be</p>	<p style="text-align: right;">Page 113</p> <p>1 corresponding race? 2 A. You mean Genesee County Board? 3 Q. Yes, with Genesee County Board, Genesee County Road 4 Commission Board, anybody else. 5 A. I had some communication with Genesee County Board, 6 not Board as a whole, individual Board members. 7 Q. That's what I mean, yeah. Generally I'm just asking 8 you -- 9 A. I will have to look for it. I mean, I'm sure I have 10 it on my computer. 11 Q. Generally I'm asking, do you recall that you had 12 written communications about this list with the 13 corresponding race of employees? 14 A. I had communication with Commissioner Brian Nolden. 15 Q. Okay. And is there in any written communication that 16 you had about the list being questioned, about why you 17 needed the list, why you have the list? 18 A. And I answered that. 19 Q. You answered it. Did you say anything at all in any 20 written communication that you had the list with 21 corresponding race, you had the corresponding race of 22 employees because Donna Poplar had offered it? 23 A. Don't remember, I don't know. 24 Q. I mean, you agree that that would be pretty important 25 to include if she did, in fact, offer it; right?</p>
<p style="text-align: right;">Page 112</p> <p>1 aware of the risk level in Genesee County and make 2 protection decisions accordingly. In addition, GCRC 3 employees are encouraged to be cooperative to social 4 distancing, handwashing, and using hand sanitizer 5 available when soap and water are not available 6 (sic)." Do you see that? 7 A. Yes. 8 Q. And those are things that you said, employees should 9 be reminded of these things? 10 A. I agree with that paragraph, yes. 11 MS. GAFKAY: We can take a break. 12 (Recess taken.) 13 MS. GAFKAY: We're back on the record. 14 You understand you're still under oath? 15 THE WITNESS: Yes. 16 Q. (BY MS. GAFKAY) So earlier we were talking about the 17 list with the corresponding race of employees. Do you 18 recall our discussion regarding that? 19 A. Yes. 20 Q. All right. And you had told me or you testified under 21 oath that Donna Poplar is the one who offered that? 22 A. Correct. 23 Q. So my question is this: Do you recall that there were 24 some written communications between you and others, 25 including some Board members, about that list with the</p>	<p style="text-align: right;">Page 114</p> <p>1 A. I possibly said that in my e-mail somewhere. 2 Q. Okay. So I imagine the organization, Genesee County 3 Road Commission, it's a large organization; right? 4 A. Correct. 5 Q. How many employees? 6 A. One hundred fifty-seven, including Board commissioners. 7 Q. And are there policies and practices that the Road 8 Commission has? 9 A. Yes. 10 Q. And do they publish those in written form? 11 A. Yes. 12 Q. Are there equal employment opportunity policies? 13 A. I believe so. 14 Q. Are there anti-retaliation policies? 15 A. Probably. 16 Q. Are there open door policies? 17 A. I believe so. 18 Q. Are you aware that those policies, complaint policies, 19 under EEO policies and the open door policies, that 20 those policies provide that if an employee has a 21 complaint, he or she is encouraged to make a 22 complaint, formal complaint? 23 A. There's procedures in there, yes, you have to follow. 24 Q. And the procedures provide that if an employee's 25 complaint relates to his or her immediate supervisor</p>

<p style="text-align: right;">Page 115</p> <p>1 that the employee has a right to go above his or her</p> <p>2 supervisor?</p> <p>3 A. Correct.</p> <p>4 Q. And you agree it's important for all employees, in</p> <p>5 order to have equal employment in the -- at the</p> <p>6 Genesee County Road Commission, that the policies</p> <p>7 apply uniformly to all employees?</p> <p>8 A. Absolutely.</p> <p>9 Q. Were there employees -- after you became managing</p> <p>10 director to the present, were there -- was there ever</p> <p>11 a time that employees received some type of discipline</p> <p>12 that Donna Poplar was involved in as the director of</p> <p>13 Human Resources that you later requested to be</p> <p>14 reversed?</p> <p>15 A. Probably.</p> <p>16 Q. Do you recall any of the employees that you requested</p> <p>17 his or her discipline be reversed?</p> <p>18 A. Yes.</p> <p>19 Q. Who?</p> <p>20 A. Don't remember.</p> <p>21 Q. You don't remember any employee you requested that?</p> <p>22 A. It had to be more than one employee.</p> <p>23 Q. Okay. But my question is, do you remember the name of</p> <p>24 any employee --</p> <p>25 A. I do not.</p>	<p style="text-align: right;">Page 117</p> <p>1 Q. Did you request a 13-percent increase for Randy</p> <p>2 Dellaposta?</p> <p>3 A. Because of pro -- yes.</p> <p>4 Q. Did you request a 10-percent increase for the Finance</p> <p>5 director, Tracy Kahn?</p> <p>6 A. Yes. I have reason for all of that, though.</p> <p>7 Q. Did you request a \$4,000 increase for the director of</p> <p>8 Engineering?</p> <p>9 A. Correct. You want to know the reasons?</p> <p>10 Q. I'm just asking, I just want to establish --</p> <p>11 MR. CASCINI: She'll ask the questions,</p> <p>12 Fred.</p> <p>13 THE WITNESS: All right.</p> <p>14 Q. (BY MS. GAFKAY) And so the lowest increases in pay</p> <p>15 for directors for the last fiscal year that you</p> <p>16 recommended, which would've been prior to September --</p> <p>17 or prior to October 1st, 2021, the lowest increases</p> <p>18 were for directors Donna Poplar and Anthony Branch;</p> <p>19 true?</p> <p>20 A. If you look at percentage, yes.</p> <p>21 Q. At the time that --</p> <p>22 A. Did you look at the --</p> <p>23 Q. At the time that you made those recommendations,</p> <p>24 Anthony Branch and Donna Poplar were the only African-</p> <p>25 American directors; true?</p>
<p style="text-align: right;">Page 116</p> <p>1 Q. -- that requested his or her discipline be reversed?</p> <p>2 A. I do not.</p> <p>3 Q. In your position, are you -- we talked about the</p> <p>4 budget a little bit earlier. So you have involvement</p> <p>5 with the budget; right?</p> <p>6 A. Correct.</p> <p>7 Q. Do you make recommendations to the Board as to</p> <p>8 budgetary items on a year-to-year basis?</p> <p>9 A. Absolutely.</p> <p>10 Q. Before the last fiscal year budget was approved, did</p> <p>11 you make recommendations to the Genesee County Road</p> <p>12 Commission as to raises for the different directors?</p> <p>13 A. Yes.</p> <p>14 Q. Do you recall that you did not recommend the same</p> <p>15 raise for all the directors?</p> <p>16 A. Correct.</p> <p>17 Q. Do you recall that you recommended a one percent</p> <p>18 increase for Anthony Branch?</p> <p>19 A. Correct.</p> <p>20 Q. Do you recall that you recommended a two percent</p> <p>21 increase for Donna Poplar?</p> <p>22 A. I believe so.</p> <p>23 Q. Do you recall that you requested a 13 percent increase</p> <p>24 for Randy Dellaposta?</p> <p>25 A. Because of promotion.</p>	<p style="text-align: right;">Page 118</p> <p>1 A. Yes, they are, yes.</p> <p>2 Q. And those recommendations and increases, would they</p> <p>3 have been made in September of 2021 or October --</p> <p>4 September?</p> <p>5 A. No; we start our budget workshop, our discussion, from</p> <p>6 mid June, and it goes on until probably the first week</p> <p>7 of September before we can go to the Board and adopt a</p> <p>8 budget for the following year.</p> <p>9 Q. So let me ask you a little differently. So do you go</p> <p>10 to the Board -- did you go to the Board with the</p> <p>11 recommendation as far as the increases in pay for the</p> <p>12 directors for the 2021-2022 budget in September of</p> <p>13 2021?</p> <p>14 A. Yes, I did.</p> <p>15 Q. We talked about director meetings, and was there ever</p> <p>16 a meeting with -- with Board members that you told</p> <p>17 Donna Poplar not to attend?</p> <p>18 A. No, not to my knowledge.</p> <p>19 Q. Or a single Board member, either the Board or Board --</p> <p>20 either an individual Board member, a committee or the</p> <p>21 whole Board, was there ever a meeting you told Donna</p> <p>22 Poplar not to attend?</p> <p>23 A. I don't remember.</p> <p>24 Q. We talked a little bit about the disciplinary action.</p> <p>25 If you can turn to page 16 -- or Exhibit 16, excuse</p>

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1 me. And you've already testified, but I'll just for
2 foundation reasons, repeat it. On or about August 19,
3 2021, you issued a disciplinary action to Donna
4 Poplar; correct?
5 A. Correct.
6 Q. And with this action, you also -- there was also a
7 two-week unpaid suspension given to Ms. Poplar; true?
8 A. Correct.
9 Q. And you agree that that was an adverse action against
10 Ms. Poplar, wouldn't you?
11 A. I guess.
12 Q. I mean, she did not get paid for two weeks; right?
13 A. Correct.
14 Q. She was disciplined; true?
15 A. Correct.
16 Q. In there, in this discipline, let's turn to page two,
17 first full paragraph says, you talk about, "... you
18 continued to advocate before the Board in support of
19 your position concerning this issue and in spite of my
20 clear, unambiguous, and final decision to implement
21 the Covid-19 response policy ..." Do you see that?
22 A. Um-hum.
23 Q. So at the August 17th, 2021, Genesee County Road
24 Commission, Board of Commissioner meeting, did Donna
25 Poplar say anything about the Covid-19 mask mandate or

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1 not wearing masks at the Genesee County Road
2 Commission?
3 A. I don't remember.
4 Q. The last sentence of this paragraph says, "This
5 conduct mirrored several historical examples when you
6 had asked the Board to intervene and overturn
7 strategic decisions I made for the GCRC within the
8 scope of my authority." Do you see that?
9 A. Um-hum.
10 Q. Can you tell me any example, historical example, of
11 when that supposedly happened?
12 A. Give an example, you said?
13 Q. I just want you to tell me -- let me repeat that.
14 Tell me each and every historical
15 example when you asked -- when she, when Donna Poplar,
16 asked the Board to intervene and overturn strategic
17 decisions made by you?
18 A. You will have to go back to the Board minutes and pull
19 all that information.
20 Q. So I'm asking you --
21 A. I can't remember.
22 Q. You don't know of any sitting here right now?
23 A. Yeah, one time she -- yeah, I remember her calling
24 Commissioner Nolden. She actually went out and then
25 asked Commissioner Nolden to come back to this room

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1 and explained to the Board that the county employees
2 are wearing masks, which was a false statement she was
3 making to our Board, thinking that I was going to
4 change my mind, because I knew the employees at the
5 county level were not required or mandated to wear
6 masks.
7 Q. This would have been in mid August of 2021?
8 A. Sometime, yes, sometime last -- I don't remember the
9 date. But that's just one example, that was just one
10 example.
11 Q. That related to what -- the reason you were
12 disciplining her in -- in this disciplinary notice
13 dated August 19, 2021; right?
14 A. Well, I was disciplining her because she did not
15 follow my directives.
16 Q. Okay. Who authored what's been marked as Exhibit 16,
17 the disciplinary action?
18 A. This?
19 Q. Yeah.
20 A. I did.
21 Q. Was anybody else involved in issuing the disciplinary
22 action notice and suspension to Donna Poplar other
23 than you?
24 MR. CASCINI: I'm just going to place
25 an objection on the record to just notify the

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1 witness -- there's a word I forgot in my mind all of
2 sudden. I'm going to notify the witness not to answer
3 any questions that would implicate attorney/client
4 privilege. Privileged communications should remain
5 excluded from the answer; otherwise, though, you can
6 answer.
7 THE WITNESS: I had our labor attorney
8 review it before I implemented this.
9 MR. CASCINI: Again, I would ask you to
10 please exclude any references that would implicate
11 attorney/client privilege in your answers, Fred.
12 THE WITNESS: I drafted this.
13 Q. (BY MS. GAFKAY) Other than any discussions with
14 counsel, did you talk to anybody at Genesee County
15 Road Commission, including any Genesee County Road
16 Commission members, Board members, about the
17 disciplinary action before issuing it?
18 A. No, I did not.
19 MS. GAFKAY: I want to show you a
20 document maybe my first and only exhibit, 21.
21 (Document marked Plaintiff's
22 Deposition Exhibit No. 21.)
23 Q. (BY MS. GAFKAY) Go ahead and look at Exhibit 21.
24 A. (Reviewing document).
25 Q. In my review of the minutes for August 17th, 2021, I

<p>Page 123</p> <p>1 don't see anything relating to Donna Poplar advocating</p> <p>2 a position with the Board about Covid-19 protocols.</p> <p>3 Is there anything in the minutes, to your knowledge?</p> <p>4 A. What was the question?</p> <p>5 Q. I didn't see anything about Donna Poplar raising</p> <p>6 anything during that meeting with the Genesee County</p> <p>7 Road Commission. Do you see anything?</p> <p>8 A. Do I see anything about what?</p> <p>9 Q. About Donna Poplar raising any issues about Covid-19</p> <p>10 protocols at that meeting.</p> <p>11 A. This --</p> <p>12 Q. Yeah.</p> <p>13 A. I believe the argument that they made that we heard</p> <p>14 and Commissioner Nolden was asked at the public</p> <p>15 meeting was closed. The public meeting was adjourned,</p> <p>16 and Mr. Nolden actually left this room, or left this</p> <p>17 building, and she went out there and asked him to come</p> <p>18 back and explain to the Board; but it was after the</p> <p>19 Board of Commissioners meeting was adjourned.</p> <p>20 Q. When he came back -- did he come back?</p> <p>21 A. Yep.</p> <p>22 Q. What did he say to the Board?</p> <p>23 A. He told them that the county employees are mandated to</p> <p>24 wear masks.</p> <p>25 Q. Is he in any way related to the Department of Health</p>	<p>Page 125</p> <p>1 A. Josh Freeman, director of Genesee County Board, and</p> <p>2 Derek Bradshaw, was the director of Metropolitan</p> <p>3 Planning Commission.</p> <p>4 Q. Those are the two people you talked to?</p> <p>5 A. Yes.</p> <p>6 Q. So if MLives -- there was an article in MLive in</p> <p>7 August of 2021 saying there was a mask mandate for</p> <p>8 Genesee County, that's fake news, according to you?</p> <p>9 A. No, I didn't say that.</p> <p>10 Q. Did any other director, other than Anthony Branch --</p> <p>11 well, strike that.</p> <p>12 Has Anthony Branch ever made complaints</p> <p>13 about you at all?</p> <p>14 A. Not that I know of.</p> <p>15 Q. Any other director make any complaints about you?</p> <p>16 A. Absolutely not.</p> <p>17 Q. Any other employee at all make any complaints about</p> <p>18 you, other than Donna Poplar?</p> <p>19 A. Yes.</p> <p>20 Q. Who else has made a complaint about you in your</p> <p>21 conduct or behavior?</p> <p>22 A. Not because of my behavior, no. It wasn't my</p> <p>23 behavior.</p> <p>24 Q. Because of employment decisions made by you, because --</p> <p>25 A. Coetta, director of Finance, she wanted more money,</p>
<p>Page 124</p> <p>1 and Human Services for Genesee County, to your</p> <p>2 knowledge?</p> <p>3 A. I don't know.</p> <p>4 Q. If he was, do you think that he would be a good</p> <p>5 resource for that information?</p> <p>6 MR. CASCINI: Objection; speculation.</p> <p>7 THE WITNESS: I would say so, yeah; but</p> <p>8 I did my own research.</p> <p>9 Q. (BY MS. GAFKAY) So a commissioner, one of the Board</p> <p>10 members, Mr. Nolden --</p> <p>11 A. Yes.</p> <p>12 Q. -- told the Board on August 17th that the county</p> <p>13 mandated mask wearing?</p> <p>14 A. Something like that.</p> <p>15 Q. Okay. That's what you remember.</p> <p>16 A. Yes, that's what I remember.</p> <p>17 Q. And if the county did, in fact, require mask wearing</p> <p>18 of employees and visitors, would the Genesee County</p> <p>19 Road Commission also require it?</p> <p>20 A. If it was true, yes.</p> <p>21 Q. But you're saying it's not true?</p> <p>22 A. Correct.</p> <p>23 Q. Your reason --</p> <p>24 A. Absolutely correct.</p> <p>25 Q. Your resource is who, again?</p>	<p>Page 126</p> <p>1 and I said no, and she put in a complaint.</p> <p>2 Q. She was a director?</p> <p>3 A. She was a director, but she wanted to get all the way</p> <p>4 to the top of the scale. I had Ron -- Ron Lattimer,</p> <p>5 our trunk line supervisor, he put in a complaint</p> <p>6 because -- claiming that I was harassing him. What I</p> <p>7 was doing is, I was trying to correct the tasks that</p> <p>8 they did in Maintenance Department, if there was</p> <p>9 estimating projects and the schedule of projects and</p> <p>10 the accountability of those projects. He thought it</p> <p>11 was harassment towards him.</p> <p>12 Q. Anybody else that you're aware of?</p> <p>13 A. Let's see. Sue Charnesky, because I asked her -- she</p> <p>14 was spending excessive time talking to other employees</p> <p>15 instead of being at her station doing her work. So</p> <p>16 she complained that to HR.</p> <p>17 Q. Anybody else that you're aware of?</p> <p>18 A. I'm thinking. I think that's about it.</p> <p>19 Q. Okay. So --</p> <p>20 A. Unless you know somebody. Mention the name, and I'll</p> <p>21 tell you yes or no.</p> <p>22 Q. I don't have it in front of me if there was somebody</p> <p>23 else. I don't know.</p> <p>24 So you testified to disciplining Donna,</p> <p>25 putting her on two-week suspension. Do you recall --</p>

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1	and that was sometime in mid August; right?	1	administrative leave?
2	A. Yes.	2	A. So that I had the time to deal with this complaint.
3	Q. And then did Donna Poplar, did you receive what's been	3	MR. CASCINI: Same objection.
4	marked as Exhibit 17, which is a complaint from Donna	4	THE WITNESS: I wanted the Board to
5	Poplar regarding retaliation, continued race	5	deal with this complaint. If they wanted to
6	discrimination, harassment, differential treatment and	6	investigate, I don't know. They can do what they want
7	hostile work environment against you?	7	to do with it. So in the meantime, I wanted her to be
8	A. Okay.	8	on administrative leave while the Board decides what
9	Q. Did you know she made that complaint on August 26th,	9	to do with this complaint.
10	2021?	10	Q. (BY MS. GAFKAY) All I'm trying to establish is, she
11	A. I did not know that until two weeks after.	11	made the complaint 'cause she was put on
12	Q. Okay.	12	administrative leave?
13	A. This -- I believe this went to Chairperson Dickerson,	13	A. It wasn't a discipline.
14	and I think he kept it for at least ten days before he	14	MR. CASCINI: Same objection.
15	released it to other commissioners; and once this was	15	Q. (BY MS. GAFKAY) I didn't say that. Those words
16	released to the commissioners, that's when I received	16	didn't come out of my mouth. I just asked you if --
17	it, I believe it was ten days after.	17	A. Administrative leave with pay so our Board can have
18	Q. Well, was Donna, then, put on administrative leave	18	the time to decide how to deal with this other
19	after her two-week suspension?	19	complaint that came in to them.
20	A. Yes, yes, she was.	20	Q. Are you aware of any other employee who's made a
21	Q. Why was Donna Poplar -- was that a decision made by	21	complaint that has been placed on administrative
22	you?	22	leave?
23	A. It was a decision made by me, correct.	23	A. I'm not aware of anybody.
24	Q. Anybody else?	24	Q. Okay. So while you're telling her, in Exhibit 19,
25	A. No, just me.	25	while you're on administrative leave, you are -- you
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1	Q. Why was the reason Donna was put on administrative	1	don't tell her how long she's going to be on
2	leave?	2	administrative leave, do you?
3	A. Because I wanted to know how to handle this complaint.	3	A. Correct.
4	This was another sort of complaint that came through,	4	Q. You tell her that she is fully relieved from all her
5	and I just -- I needed a cooling off period between me	5	job duties. Do you tell her that?
6	and her. So I wanted to turn this over to the Board	6	A. Correct.
7	to decide what they wanted to do with it. So in the	7	Q. Do you tell her that she's not permitted to enter any
8	meantime, I put her on administrative leave with pay.	8	commission facility?
9	Q. So Exhibit 19, you gave her -- did you give her this	9	A. Yes.
10	notice of administrative leave on September 6th, 2021?	10	Q. Do you tell her that she's prohibited from using any
11	A. Yes.	11	GCRC property?
12	Q. So because she made the complaint that we just went	12	A. Yes.
13	over for retaliation, continued race discrimination,	13	Q. Do you tell her not to interfere with the external
14	harassment, differential treatment and hostile work	14	investigation in any way?
15	environment, instead of being reinstated after the	15	A. Whatever it say in here is true. I mean, this is what
16	two-week disciplinary suspension, she was placed on	16	I said.
17	involuntary administrative leave; true?	17	Q. Do you tell her that she's expected to fully cooperate
18	A. I would agree.	18	with the investigation and respond to any
19	MR. CASCINI: I object; that	19	communications; right?
20	misconstrues the prior testimony.	20	A. Exactly.
21	Q. (BY MS. GAFKAY) Is that true?	21	Q. Sounds like she did something wrong. What did she do
22	A. Yes, because I wanted the Board of Road Commissioners	22	wrong?
23	to deal with this complaint. I wanted this to be out	23	A. What she did, this complaint again. I mean, she filed
24	of my hands.	24	a complaint in January, and I give her a directive so
25	Q. Because she made the complaint, she was put on	25	we can maybe fix our working relationship, to let her

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<p>1 know who the boss is in this organization instead of</p> <p>2 giving me a pushback with every decision I want to</p> <p>3 make, and then I put her on suspension, and during</p> <p>4 that two-week suspension, I see this. And then, I</p> <p>5 mean, I didn't know how to handle this. So I figured,</p> <p>6 the best thing to do is put her on administrative</p> <p>7 leave and turn this over to the Board and let them</p> <p>8 decide how to handle this case, and that's exactly</p> <p>9 what happened here.</p> <p>10 Q. Was there ever an investigation done?</p> <p>11 A. Don't know, don't know. Was there? No, I don't think</p> <p>12 so. The investigation was already done from the first</p> <p>13 complaint that she submitted back in January of 2021.</p> <p>14 Q. So Donna is the complainant; right?</p> <p>15 A. Um-hum.</p> <p>16 Q. She's complaining about you; right? She's complaining</p> <p>17 about you?</p> <p>18 A. Okay.</p> <p>19 Q. You weren't placed -- were you placed on administrative</p> <p>20 leave?</p> <p>21 A. No.</p> <p>22 Q. Was all Donna Poplar's access restricted?</p> <p>23 A. Yes.</p> <p>24 Q. You didn't anticipate that she was going to ever come</p> <p>25 back to work after this administrative leave?</p>	<p>1 A. Correct.</p> <p>2 Q. All right. So what happened that she was returned?</p> <p>3 A. What happened when she returned?</p> <p>4 Q. No, no. Why was she returned if the investigation</p> <p>5 wasn't done?</p> <p>6 A. It was a decision the Board made to bring her back.</p> <p>7 Q. And you have knowledge that was because she had filed</p> <p>8 the lawsuit?</p> <p>9 A. I don't know.</p> <p>10 MS. GAFKAY: Let's take a quick recess</p> <p>11 and talk to lead counsel here, and we may be close to</p> <p>12 being done.</p> <p>13 (Recess taken.)</p> <p>14 MS. GAFKAY: I don't have any further</p> <p>15 questions at this time.</p> <p>16 MR. CASCINI: Okay.</p> <p>17 EXAMINATION</p> <p>18 BY MR. CASCINI:</p> <p>19 Q. Fred, as you know, my name is Andrew Cascini. I'm</p> <p>20 here today representing both the Road Commission, and</p> <p>21 I understand the Road Commission is identifying you,</p> <p>22 so you in your individual capacity, with respect to</p> <p>23 individual claims filed against you.</p> <p>24 I'm just going to ask you a couple of</p> <p>25 questions here on cross. I don't think it should take</p>
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<p>1 A. Don't know.</p> <p>2 Q. Well, that's why you restricted all her access; right?</p> <p>3 MR. CASCINI: Objection; assumes facts</p> <p>4 not in evidence --</p> <p>5 THE WITNESS: And I didn't want --</p> <p>6 MR. CASCINI: -- and misconstrues prior</p> <p>7 testimony.</p> <p>8 MS. GAFKAY: And Mr. Peivandi was</p> <p>9 saying something. Go ahead.</p> <p>10 THE WITNESS: I didn't want her to have</p> <p>11 access to any information to this organization.</p> <p>12 Q. (BY MS. GAFKAY) Because she had made the complaint?</p> <p>13 A. No; because I put her on administrative leave.</p> <p>14 Q. And when she returned, her reporting relationship</p> <p>15 changed; right?</p> <p>16 A. Correct.</p> <p>17 Q. And she was only returned after she filed the lawsuit;</p> <p>18 true?</p> <p>19 MR. CASCINI: Objection; assumes facts</p> <p>20 not in evidence.</p> <p>21 THE WITNESS: I don't know.</p> <p>22 Q. (BY MS. GAFKAY) Well, she wasn't returned -- to your</p> <p>23 knowledge, the investigation never ended, did it?</p> <p>24 A. About this second complaint?</p> <p>25 Q. Yes.</p>	<p>1 me very long at all.</p> <p>2 I believe we had some testimony that as</p> <p>3 the managing director, you report directly to and only</p> <p>4 to the Board of Road Commissioners; right?</p> <p>5 A. That's correct.</p> <p>6 Q. Did they ever give you instructions or tell you to do</p> <p>7 specific things with respect to your job?</p> <p>8 A. Yes, they do.</p> <p>9 Q. And you, as the managing director, you are the direct</p> <p>10 supervisor of Randy Dellaposta, the deputy managing</p> <p>11 director; correct?</p> <p>12 A. That's correct.</p> <p>13 Q. And Randy is the deputy managing director of -- he's</p> <p>14 deputy managing director, and he's the direct</p> <p>15 supervisor for all the other directors; right?</p> <p>16 A. Correct.</p> <p>17 Q. Do you ever give Randy work instructions, tell him</p> <p>18 what to do?</p> <p>19 A. Yes, I do.</p> <p>20 Q. And does Randy ever give work instructions to all the</p> <p>21 subordinate directors under him, tell them what to do?</p> <p>22 A. Yes, he does.</p> <p>23 Q. Anthony Branch, the maintenance director, does he ever</p> <p>24 tell his crews what to do?</p> <p>25 MS. GAFKAY: Objection; lack of</p>

<p>1 foundation. 2 THE WITNESS: Yes, he does. 3 Q. (BY MR. CASCINI) And would you describe those 4 instructions -- could a word, could the word directive 5 be used to describe instructions or orders or 6 directions to do certain tasks -- 7 MS. GAFKAY: Object to the form. 8 Q. (BY MR. CASCINI) -- do a certain job? 9 A. Yes. 10 Q. Now, I heard a little bit earlier, though -- you 11 testified that you've never received directives before 12 from anybody in the performance of your job at any 13 point in time; but I heard you just say and just gave 14 testimony that you have received directives from the 15 Board of Road Commissioners. Why did you give that 16 inconsistent answer? 17 A. I misunderstood the question, I believe. I've never 18 given this type of directive that I had to give Donna 19 Poplar, and that directive was designed to repair our 20 relationship between myself and her. 21 Q. Okay. 22 A. I never had any directives from anybody else for 23 repair our rela -- my relationship with anybody else. 24 Q. Got it, okay. 25 A. That's the difference.</p>	<p>Page 135</p>	<p>1 reorganization, you mentioned that there was going to 2 be the creation of a new director level position; is 3 that correct? 4 A. Correct. 5 Q. And what is that new position going to be or that new 6 position proposed to be, I should say? 7 A. That would be the director of Fleet Maintenance and 8 Facilities. 9 Q. And who is the person who's going to be promoted into 10 that slot? 11 A. Kendra Love, who is currently the manager for that 12 department. 13 Q. Who is currently the director who's responsible for 14 performing the functions that this new department will 15 take care of once it's created? 16 A. That responsibility is under the deputy managing 17 director. 18 Q. And the deputy managing director is Randy Dellaposta; 19 is that correct? 20 A. Correct. 21 Q. So under the proposed reorganization plan, all those 22 fleet responsibilities are going to be taken away from 23 his responsibility and delegated into their own 24 department? 25 A. Yes.</p>	<p>Page 137</p>
<p>1 Q. Now, one of the things that -- now, prior to your time 2 as the managing director, you served for about 13 3 years as the engineering director; is that correct? 4 A. And county highway engineer. 5 Q. And the county highway engineer; right? 6 A. Yes. 7 Q. During any period during any of these years, did you 8 ever receive any complaints from any of your 9 subordinate employees that you supervised alleging 10 that you had discriminated against them on the basis 11 of their race? 12 A. Not at all. 13 Q. So the first time that you ever received a complaint 14 that you mistreated an employee, allegedly, because of 15 his or her race was after you became managing 16 director? 17 A. Correct. 18 Q. Now, I want to ask you some questions. Julie had an 19 opportunity to ask you about a proposed reorganization 20 that may be occurring here at the Road Commission. 21 You mentioned that that was a proposed reorganization, 22 right, but hasn't yet been finalized? 23 A. Correct. 24 Q. Now, with respect to that proposed reorganization, one 25 of the -- with respect to that proposed</p>	<p>Page 136</p>	<p>1 Q. And placed under the leadership of Kendra Love, you 2 mentioned? 3 A. Correct. 4 Q. Got it. Earlier we also heard testimony from you 5 about different raises that were recommended as part 6 of the most recent budgeting process. 7 You mentioned, when Julie was asking 8 some questions, that you had explanations for why 9 different departmental directors were recommended for 10 raises at different amounts. Can you describe some of 11 those reasons for the record? 12 A. Sure. For Randy Dellaposta, who became the deputy 13 managing director, that was a promotion, so that's why 14 I believe he got the biggest raise. 15 And then for Finance director, 16 basically, as of last year, I was able to put her on 17 directors scale level because she was well-below our 18 directors scale wages at this Road Commission. So 19 after two years of performance, seeing her 20 performance, I finally decided to put her on the 21 director scale, which she is basically -- the director 22 scales have four phases; they've got first year, 23 second year, third year and fourth year. So I put her 24 on the first year of the director rate scale, and 25 that's why there's an extra increase for Finance</p>	<p>Page 138</p>

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<p>1 director.</p> <p>2 Q. And that 10-percent increase that we were talking</p> <p>3 about? Was it a 10-percent increase?</p> <p>4 A. I believe so.</p> <p>5 Q. I understand.</p> <p>6 A. And then for the director of Engineering, I appointed</p> <p>7 him to be the county highway engineer, with the Board</p> <p>8 approval. So I decided that he deserves an extra pay</p> <p>9 to carry that title.</p> <p>10 Q. And the county highway engineer, that's a separate</p> <p>11 position than director of Engineering?</p> <p>12 A. Correct.</p> <p>13 Q. Now, earlier you also gave some testimony, talking</p> <p>14 about how you thought there was a chance that maybe in</p> <p>15 the past you may have been discriminated against based</p> <p>16 on your race --</p> <p>17 A. I sure have.</p> <p>18 Q. -- because you didn't receive any extra pay for being</p> <p>19 the county highway engineer?</p> <p>20 A. Correct.</p> <p>21 Q. Now, is the extra amount of money that you provided or</p> <p>22 that you recommended be provided to the Engineering</p> <p>23 director, was that the pay increase that you felt you</p> <p>24 were entitled to back when you were the engineering</p> <p>25 director?</p>	<p>1 A. I can tell you, he is one of the highest paid</p> <p>2 maintenance directors in the State of Michigan out of</p> <p>3 the 83 counties that we have.</p> <p>4 Q. And what about for Donna?</p> <p>5 A. Donna's already at the end of the director's scale,</p> <p>6 and I thought that was an adequate compensation for a</p> <p>7 HR director.</p> <p>8 Q. So is it safe to say that one of the reasons that the</p> <p>9 percentage increases were smaller for Donna and</p> <p>10 Anthony is because they didn't fall into any of those</p> <p>11 special circumstances, and they were already receiving</p> <p>12 prior to that --</p> <p>13 A. Correct.</p> <p>14 Q. -- extremely high and appropriate salaries?</p> <p>15 A. Yes. And to this day, they still making more, both</p> <p>16 the Maintenance director and the county high</p> <p>17 engineer still -- excuse me -- Maintenance director</p> <p>18 and HR director still makes more than the Finance</p> <p>19 director, the Engineering director and the Fleet</p> <p>20 Maintenance and Facilities director.</p> <p>21 Q. Okay. If we're thinking back in time to 2019, around</p> <p>22 the time of the creation of the HR administrative</p> <p>23 assistant position, did you eventually approve and</p> <p>24 recommend the creation of a part-time position</p> <p>25 partially to serve as a reasonable accommodation for</p>
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<p>1 A. Yes; and, again, that increase is totally funded by</p> <p>2 State of Michigan.</p> <p>3 Q. Got it. Got it. So that's a separate source of funds</p> <p>4 that --</p> <p>5 A. Yes. We get \$10,000 a year for having a licensed</p> <p>6 professional county highway engineer on board.</p> <p>7 Q. Got it. And, again, let me complete my questions.</p> <p>8 It's a different source of funds than</p> <p>9 the normal Act 52 funds --</p> <p>10 A. Yes, Act 51.</p> <p>11 Q. -- than the normal Act 51 funds that serve everything</p> <p>12 else; is that correct, Fred?</p> <p>13 A. Yes.</p> <p>14 Q. Different source of funds.</p> <p>15 We also heard testimony that a one</p> <p>16 percent pay increase was recommended for Anthony and a</p> <p>17 two percent pay increase was recommended for Donna.</p> <p>18 To the best of your knowledge, was</p> <p>19 there ever any sort of comparison to see where Donna</p> <p>20 and Anthony's pay ranked when compared with other HR</p> <p>21 directors or maintenance directors across the State of</p> <p>22 Michigan in county road commissions?</p> <p>23 A. Yes, I have done some research on that, yes.</p> <p>24 Q. Okay. As compared with other directors of</p> <p>25 maintenance, how does Anthony's salary stack up?</p>	<p>1 Donna Poplar's visual disability?</p> <p>2 A. Yes, I did.</p> <p>3 Q. And you voiced that recommendation to the Board;</p> <p>4 correct?</p> <p>5 A. Correct.</p> <p>6 Q. But you pushed back and opposed it when she proposed</p> <p>7 making it into a full-time position; is that right?</p> <p>8 A. Correct.</p> <p>9 MR. CASCINI: I have nothing further.</p> <p>10 REEXAMINATION</p> <p>11 BY MS. GAFKAY:</p> <p>12 Q. So what is the reason that you're proposing the Human</p> <p>13 Resource director fall under Finance?</p> <p>14 A. Because most road commissions in state of Michigan,</p> <p>15 they have a combined HR and finance as one department.</p> <p>16 Q. Does the Finance director, to your knowledge, have any</p> <p>17 human resource experience, the current one?</p> <p>18 A. Not that I know of.</p> <p>19 Q. So if you were going to combine -- if you were going</p> <p>20 to propose to combine director of -- if you were going</p> <p>21 to combine the departments of Human Resources and</p> <p>22 Finance, Donna Poplar could be the director of that</p> <p>23 department, couldn't she?</p> <p>24 A. No, because every decision HR makes has financial</p> <p>25 impact, okay, but not all financial impact --</p>

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1 financial decisions have HR impact. So anything that
2 happens financially in this organization has impact to
3 Finance director, the Finance Department.
4 Q. Well, really anything --
5 A. Any --
6 Q. -- any decision?
7 A. -- that's correct.
8 Q. So should all departments be under Finance?
9 A. No.
10 Q. Why, then, does HR have to be under Finance?
11 MR. CASCINI: Objection; asked and
12 answered.
13 THE WITNESS: Well, I've been thinking
14 about this, you know, even when I was director of
15 Engineering. Why do we need HR director. This is,
16 like I said, I've researched all of the road
17 commissions in state of Michigan, the HR and finance
18 are combined into one.
19 Q. (BY MS. GAFKAY) Do you think that the Human Resources
20 Department, the Human Resources function is important
21 for the employees to have somebody to go to with
22 complaints, concerns, policy issues, things like that?
23 A. That's why I'm keeping that title of HR director
24 within the Finance Department.
25 Q. I mean, do you agree that Human Resources is about

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1 people and employees as opposed to money? You've said
2 that.
3 A. Correct, yes.
4 Q. But you don't value that enough to keep the people
5 separate from the money?
6 A. No. I'm looking at the picture that I see in the
7 State of Michigan with all the road commissions.
8 Q. So if that happened, if the combination like you want
9 or propose, would there be a director of Human
10 Resources?
11 A. Yes.
12 Q. That would be the title?
13 A. That would be title as is proposed for being effective
14 this year, when we go into our new fiscal year; but
15 future proposed, that position will be reduced to HR
16 manager.
17 Q. Okay. And you would eliminate the director position?
18 A. Correct.
19 MS. GAFKAY: Anything else?
20 (Ms. Gafkay and Ms. Lee
21 left room and
22 returned.)
23 Q. (BY MS. GAFKAY) Just for clarification, if your
24 proposal goes through and the director of -- and the
25 Human Resources Department falls under Finance

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1 Department, would the director of Human Resources be,
2 he or she, be reporting to the director of Finance?
3 A. Correct.
4 Q. Immediately?
5 A. Correct.
6 Q. And so if that did happen and Donna Poplar was still
7 in the position, she would now have to report to who?
8 A. Through Finance director.
9 Q. And that's who right now?
10 A. Tracy Kahn.
11 Q. And then Tracy Kahn reports to who?
12 A. Randy Dellaposta.
13 Q. And then Randy reports to you?
14 A. Correct.
15 Q. So now there would be more -- even more levels between
16 you and Ms. Poplar; right?
17 A. You could say that, yeah.
18 Q. I mean, is that one of the factors, is because you
19 want more levels between you --
20 A. No.
21 Q. -- and Donna Poplar?
22 A. That's not it at all. That's not the reason.
23 MS. GAFKAY: I don't have any further
24 questions.
25 MR. CASCINI: I think I have one, and I

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1 actually mean it.
2 REEXAMINATION
3 BY MR. CASCINI:
4 Q. Fred, you gave testimony that said that in a future
5 time you may want to, under the proposed plan at
6 least, change the HR director position into a HR
7 manager position. When would you -- when would, under
8 the proposal, when would that occur?
9 A. It would occur when HR director retire.
10 Q. And the current HR director is the Plaintiff in this
11 case, Donna Poplar?
12 A. Absolutely.
13 MR. CASCINI: No further questions.
14 MS. GAFKAY: I don't have any
15 questions.
16 (Deposition concluded at
17 2:30 p.m.)
18 (END OF RECORD)
19
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21
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23
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1 STATE OF MICHIGAN)
2) ss.
3 COUNTY OF SHIAWASSEE)

4 I, Cynthia A. Lathrop, Court Reporter and
5 Notary Public in and for the above county and state, acting
6 in the County of Genesee, do hereby certify that the
7 foregoing deposition was taken before me at the time and
8 place hereinbefore set forth.

9 I further certify that said witness was by
10 me sworn in said cause and the testimony then given was
11 reported by me stenographically and subsequently
12 transcribed and that the foregoing is a full, true and
13 correct transcript of my original shorthand notes.

14 IN TESTIMONY WHEREOF, I set my hand and
15 notarial seal at Shiawassee County, Michigan, this 5th day
16 of August 2022.

17
18
19
20
21 Cynthia A. Lathrop (CSR-2474)
22 Notary Public in and for the
23 County of Shiawassee,
24 State of Michigan
25 My Commission Expires: 2/2/26